

preliminary agreement may proceed to finalize plans for the 15467
school, establish a governing authority as described in division 15468
(E) of this section for the school, and negotiate a contract with 15469
the entity. Provided the proposing person or group adheres to the 15470
preliminary agreement and all provisions of this chapter, the 15471
entity shall negotiate in good faith to enter into a contract in 15472
accordance with section 3314.03 of the Revised Code. 15473

(3) A new start-up school that is established in a school 15474
district while that district is either in a state of academic 15475
emergency or in a state of academic watch under section 3302.03 of 15476
the Revised Code may continue in existence once the school 15477
district is no longer in a state of academic emergency or academic 15478
watch, provided there is a valid contract between the school and a 15479
sponsor. 15480

(4) A copy of every preliminary agreement entered into under 15481
this division shall be filed with the superintendent of public 15482
instruction. 15483

(D) A majority vote of the board of a sponsoring entity and a 15484
majority vote of the members of the governing authority of a 15485
community school shall be required to adopt a contract and convert 15486
the public school to a community school or establish the new 15487
start-up school. Up to the statewide limit prescribed in section 15488
3314.013 of the Revised Code, an unlimited number of community 15489
schools may be established in any school district provided that a 15490
contract is entered into for each community school pursuant to 15491
this chapter. 15492

(E) As used in this division, "immediate relatives" are 15493
limited to spouses, children, parents, grandparents, siblings, and 15494
in-laws. 15495

Each new start-up community school established under this 15496
chapter shall be under the direction of a governing authority 15497

which shall consist of a board of not less than five individuals 15498
who are not owners or employees, or immediate relatives of owners 15499
or employees, of any for-profit firm that operates or manages a 15500
school for the governing authority. 15501

No person shall serve on the governing authority or operate 15502
the community school under contract with the governing authority 15503
so long as the person owes the state any money or is in a dispute 15504
over whether the person owes the state any money concerning the 15505
operation of a community school that has closed. 15506

(F) Nothing in this chapter shall be construed to permit the 15507
establishment of a community school in more than one school 15508
district under the same contract. 15509

Sec. 3314.03. A copy of every contract entered into under 15510
this section shall be filed with the superintendent of public 15511
instruction. 15512

(A) Each contract entered into between a sponsor and the 15513
governing authority of a community school shall specify the 15514
following: 15515

(1) That the school shall be established as either of the 15516
following: 15517

(a) A nonprofit corporation established under Chapter 1702. 15518
of the Revised Code, if established prior to ~~the effective date of~~ 15519
~~this amendment~~ April 8, 2003; 15520

(b) A public benefit corporation established under Chapter 15521
1702. of the Revised Code, if established after ~~the effective date~~ 15522
~~of this amendment~~ April 8, 2003; 15523

(2) The education program of the school, including the 15524
school's mission, the characteristics of the students the school 15525
is expected to attract, the ages and grades of students, and the 15526
focus of the curriculum; 15527

(3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement tests;	15528 15529 15530
(4) Performance standards by which the success of the school will be evaluated by the sponsor;	15531 15532
(5) The admission standards of section 3314.06 of the Revised Code;	15533 15534
(6)(a) Dismissal procedures;	15535
(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five cumulative <u>consecutive</u> hours of the learning opportunities offered to the student. Such a policy shall provide for withdrawing the student by the end of the thirtieth day after the student has failed to participate as required under this division.	15536 15537 15538 15539 15540 15541 15542 15543
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	15544 15545
(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state, and the audits shall be conducted in accordance with section 117.10 of the Revised Code.	15546 15547 15548 15549 15550 15551
(9) The facilities to be used and their locations;	15552
(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised	15553 15554 15555 15556 15557

Code; 15558

(11) That the school will comply with the following 15559
requirements: 15560

(a) The school will provide learning opportunities to a 15561
minimum of twenty-five students for a minimum of nine hundred 15562
twenty hours per school year; 15563

(b) The governing authority will purchase liability 15564
insurance, or otherwise provide for the potential liability of the 15565
school; 15566

(c) The school will be nonsectarian in its programs, 15567
admission policies, employment practices, and all other 15568
operations, and will not be operated by a sectarian school or 15569
religious institution; 15570

(d) The school will comply with sections 9.90, 9.91, 109.65, 15571
121.22, 149.43, 2151.358, 2151.421, 2313.18, 3301.0710, 3301.0711, 15572
3301.0712, 3301.0715, 3313.50, 3313.608, 3313.6012, 3313.643, 15573
3313.648, 3313.66, 3313.661, 3313.662, 3313.67, 3313.671, 15574
3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.80, 3313.96, 15575
3319.073, 3319.321, 3319.39, 3321.01, 3321.13, 3321.14, 3321.17, 15576
3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 15577
5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 15578
4123., 4141., and 4167. of the Revised Code as if it were a school 15579
district and will comply with section 3301.0714 of the Revised 15580
Code in the manner specified in section 3314.17 of the Revised 15581
Code; 15582

(e) The school shall comply with Chapter 102. of the Revised 15583
Code except that nothing in that chapter shall prohibit a member 15584
of the school's governing board from also being an employee of the 15585
school and nothing in that chapter or section 2921.42 of the 15586
Revised Code shall prohibit a member of the school's governing 15587
board from having an interest in a contract into which the 15588

governing board enters that is not a contract with a for-profit 15589
firm for the operation or management of a school under the 15590
auspices of the governing authority; 15591

(f) The school will comply with sections 3313.61, 3313.611, 15592
and 3313.614 of the Revised Code, except that the requirement in 15593
sections 3313.61 and 3313.611 of the Revised Code that a person 15594
must successfully complete the curriculum in any high school prior 15595
to receiving a high school diploma may be met by completing the 15596
curriculum adopted by the governing authority of the community 15597
school rather than the curriculum specified in Title XXXIII of the 15598
Revised Code or any rules of the state board of education; 15599

(g) The school governing authority will submit within four 15600
months after the end of each school year a report of its 15601
activities and progress in meeting the goals and standards of 15602
divisions (A)(3) and (4) of this section and its financial status 15603
to the sponsor, the parents of all students enrolled in the 15604
school, and the legislative office of education oversight. The 15605
school will collect and provide any data that the legislative 15606
office of education oversight requests in furtherance of any study 15607
or research that the general assembly requires the office to 15608
conduct, including the studies required under Section 50.39 of Am. 15609
Sub. H.B. 215 of the 122nd general assembly and Section 50.52.2 of 15610
Am. Sub. H.B. 215 of the 122nd general assembly, as amended. 15611

(12) Arrangements for providing health and other benefits to 15612
employees; 15613

(13) The length of the contract, which shall begin at the 15614
beginning of an academic year. No contract shall exceed five years 15615
unless such contract has been renewed pursuant to division (E) of 15616
this section. 15617

(14) The governing authority of the school, which shall be 15618
responsible for carrying out the provisions of the contract; 15619

(15) A financial plan detailing an estimated school budget 15620
for each year of the period of the contract and specifying the 15621
total estimated per pupil expenditure amount for each such year. 15622
The plan shall specify for each year the base formula amount that 15623
will be used for purposes of funding calculations under section 15624
3314.08 of the Revised Code. This base formula amount for any year 15625
shall not exceed the formula amount defined under section 3317.02 15626
of the Revised Code. The plan may also specify for any year a 15627
percentage figure to be used for reducing the per pupil amount of 15628
disadvantaged pupil impact aid calculated pursuant to section 15629
3317.029 of the Revised Code the school is to receive that year 15630
under section 3314.08 of the Revised Code. 15631

(16) Requirements and procedures regarding the disposition of 15632
employees of the school in the event the contract is terminated or 15633
not renewed pursuant to section 3314.07 of the Revised Code; 15634

(17) Whether the school is to be created by converting all or 15635
part of an existing public school or is to be a new start-up 15636
school, and if it is a converted public school, specification of 15637
any duties or responsibilities of an employer that the board of 15638
education that operated the school before conversion is delegating 15639
to the governing board of the community school with respect to all 15640
or any specified group of employees provided the delegation is not 15641
prohibited by a collective bargaining agreement applicable to such 15642
employees; 15643

(18) Provisions establishing procedures for resolving 15644
disputes or differences of opinion between the sponsor and the 15645
governing authority of the community school; 15646

(19) A provision requiring the governing authority to adopt a 15647
policy regarding the admission of students who reside outside the 15648
district in which the school is located. That policy shall comply 15649
with the admissions procedures specified in section 3314.06 of the 15650

Revised Code and, at the sole discretion of the authority, shall 15651
do one of the following: 15652

(a) Prohibit the enrollment of students who reside outside 15653
the district in which the school is located; 15654

(b) Permit the enrollment of students who reside in districts 15655
adjacent to the district in which the school is located; 15656

(c) Permit the enrollment of students who reside in any other 15657
district in the state. 15658

(20) A provision recognizing the authority of the department 15659
of education to take over the sponsorship of the school in 15660
accordance with the provisions of division (C) of section 3314.015 15661
of the Revised Code; 15662

(21) A provision recognizing the sponsor's authority to 15663
assume the operation of a school under the conditions specified in 15664
division (B) of section 3314.073 of the Revised Code; 15665

(22) A provision recognizing both of the following: 15666

(a) The authority of public health and safety officials to 15667
inspect the facilities of the school and to order the facilities 15668
closed if those officials find that the facilities are not in 15669
compliance with health and safety laws and regulations; 15670

(b) The authority of the department of education as the 15671
community school oversight body to suspend the operation of the 15672
school under section 3314.072 of the Revised Code if the 15673
department has evidence of conditions or violations of law at the 15674
school that pose an imminent danger to the health and safety of 15675
the school's students and employees and the sponsor refuses to 15676
take such action; 15677

(23) A description of the learning opportunities that will be 15678
offered to students including both classroom-based and 15679
non-classroom-based learning opportunities that is in compliance 15680

with criteria for student participation established by the 15681
department under division (L)(2) of section 3314.08 of the Revised 15682
Code. 15683

(B) The community school shall also submit to the sponsor a 15684
comprehensive plan for the school. The plan shall specify the 15685
following: 15686

(1) The process by which the governing authority of the 15687
school will be selected in the future; 15688

(2) The management and administration of the school; 15689

(3) If the community school is a currently existing public 15690
school, alternative arrangements for current public school 15691
students who choose not to attend the school and teachers who 15692
choose not to teach in the school after conversion; 15693

(4) The instructional program and educational philosophy of 15694
the school; 15695

(5) Internal financial controls. 15696

(C) A contract entered into under section 3314.02 of the 15697
Revised Code between a sponsor and the governing authority of a 15698
community school may provide for the community school governing 15699
authority to make payments to the sponsor, which is hereby 15700
authorized to receive such payments as set forth in the contract 15701
between the governing authority and the sponsor. The total amount 15702
of such payments for oversight and monitoring of the school shall 15703
not exceed three per cent of the total amount of payments for 15704
operating expenses that the school receives from the state. 15705

(D) The contract shall specify the duties of the sponsor 15706
which shall be in accordance with the written agreement entered 15707
into with the department of education under division (B) of 15708
section 3314.015 of the Revised Code and shall include the 15709
following: 15710

(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;	15711 15712
(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;	15713 15714 15715
(3) Report on an annual basis the results of the evaluation conducted under division (D)(2) of this section to the department of education and to the parents of students enrolled in the community school;	15716 15717 15718 15719
(4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;	15720 15721 15722
(5) Take steps to intervene in the school's operation to correct problems in the school's overall performance, declare the school to be on probationary status pursuant to section 3314.073 of the Revised Code, suspend the operation of the school pursuant to section 3314.072 of the Revised Code, or terminate the contract of the school pursuant to section 3314.07 of the Revised Code as determined necessary by the sponsor;	15723 15724 15725 15726 15727 15728 15729
(6) Have in place a plan of action to be undertaken in the event the community school experiences financial difficulties or closes prior to the end of a school year.	15730 15731 15732
(E) Upon the expiration of a contract entered into under this section, the sponsor of a community school may, with the approval of the governing authority of the school, renew that contract for a period of time determined by the sponsor, but not ending earlier than the end of any school year, if the sponsor finds that the school's compliance with applicable laws and terms of the contract and the school's progress in meeting the academic goals prescribed in the contract have been satisfactory. Any contract that is renewed under this division remains subject to the provisions of	15733 15734 15735 15736 15737 15738 15739 15740 15741

sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 15742

Sec. 3314.041. The governing authority of each community 15743
school and any operator of such school shall ~~place in a~~ 15744
~~conspicuous manner in all documents that are distributed~~ 15745
distribute to parents of students of the school ~~or to the general~~ 15746
~~public~~ upon their enrollment in the school the following statement 15747
in writing: 15748

"The (here fill in name of the school) school 15749
is a community school established under Chapter 3314. of the 15750
Revised Code. The school is a public school and students enrolled 15751
in and attending the school are required to take proficiency tests 15752
and other examinations prescribed by law. In addition, there may 15753
be other requirements for students at the school that are 15754
prescribed by law. Students who have been excused from the 15755
compulsory attendance law for the purpose of home education as 15756
defined by the Administrative Code shall no longer be excused for 15757
that purpose upon their enrollment in a community school. For more 15758
information about this matter contact the school administration or 15759
the Ohio Department of Education." 15760

Sec. 3314.07. (A) The expiration of the contract for a 15761
community school between a sponsor and a school shall be the date 15762
provided in the contract. A successor contract may be entered into 15763
pursuant to division (E) of section 3314.03 of the Revised Code 15764
unless the contract is terminated or not renewed pursuant to this 15765
section. 15766

(B)(1) A sponsor may choose not to renew a contract at its 15767
expiration or may choose to terminate a contract prior to its 15768
expiration for any of the following reasons: 15769

(a) Failure to meet student performance requirements stated 15770
in the contract; 15771

(b) Failure to meet generally accepted standards of fiscal management;	15772 15773
(c) Violation of any provision of the contract or applicable state or federal law;	15774 15775
(d) Other good cause.	15776
(2) A sponsor may choose to terminate a contract prior to its expiration if the sponsor has suspended the operation of the contract under section 3314.072 of the Revised Code.	15777 15778 15779
(3) At least ninety days prior to the termination or nonrenewal of a contract, the sponsor shall notify the school of the proposed action in writing. The notice shall include the reasons for the proposed action in detail, the effective date of the termination or nonrenewal, and a statement that the school may, within fourteen days of receiving the notice, request an informal hearing before the sponsor. Such request must be in writing. The informal hearing shall be held within seventy days of the receipt of a request for the hearing. Promptly following the informal hearing, the sponsor shall issue a written decision either affirming or rescinding the decision to terminate or not renew the contract.	15780 15781 15782 15783 15784 15785 15786 15787 15788 15789 15790 15791
(4) A decision by the sponsor to terminate a contract may be appealed to the state board of education. The decision by the state board pertaining to an appeal under this division is final. If the sponsor is the state board, its decision to terminate a contract under division (B)(3) of this section shall be final.	15792 15793 15794 15795 15796
(5) The termination of a contract under this section shall be effective upon the occurrence of the later of the following events:	15797 15798 15799
(a) Ninety days following the date the sponsor notifies the school of its decision to terminate the contract as prescribed in	15800 15801

division (B)(3) of this section; 15802

(b) If an informal hearing is requested under division (B)(3) 15803
of this section and as a result of that hearing the sponsor 15804
affirms its decision to terminate the contract, the effective date 15805
of the termination specified in the notice issued under division 15806
(B)(3) of this section, or if that decision is appealed to the 15807
state board under division (B)(4) of this section and the state 15808
board affirms that decision, the date established in the 15809
resolution of the state board affirming the sponsor's decision. 15810

(6) Any community school whose contract is terminated under 15811
this division shall not enter into a contract with any other 15812
sponsor. 15813

(C) A child attending a community school whose contract has 15814
been terminated, nonrenewed, or suspended or that closes for any 15815
reason shall be admitted to the schools of the district in which 15816
the child is entitled to attend under section 3313.64 or 3313.65 15817
of the Revised Code. Any deadlines established for the purpose of 15818
admitting students under section 3313.97 or 3313.98 of the Revised 15819
Code shall be waived for students to whom this division pertains. 15820

(D) If a community school does not intend to renew a contract 15821
with its sponsor, the community school shall notify its sponsor in 15822
writing of that fact at least one hundred eighty days prior to the 15823
expiration of the contract. Such a community school may enter into 15824
a contract with a new sponsor in accordance with section 3314.03 15825
of the Revised Code upon the expiration of the previous contract. 15826

(E) A sponsor of a community school and the officers, 15827
directors, or employees of such a sponsor are not liable in 15828
damages in a tort or other civil action for harm allegedly arising 15829
from either of the following: 15830

(1) A failure of the community school or any of its officers, 15831
directors, or employees to perform any statutory or common law 15832

duty or responsibility or any other legal obligation;	15833
(2) An action or omission of the community school or any of its officers, directors, or employees that results in harm.	15834 15835
(E) (F) As used in this section:	15836
(1) "Harm" means injury, death, or loss to person or property.	15837 15838
(2) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons.	15839 15840 15841 15842
Sec. 3314.08. (A) As used in this section:	15843
(1) "Base formula amount" means the amount specified as such in a community school's financial plan for a school year pursuant to division (A)(15) of section 3314.03 of the Revised Code.	15844 15845 15846
(2) "Cost-of-doing-business factor" has the same meaning as in section 3317.02 of the Revised Code.	15847 15848
(3) "IEP" means an individualized education program as defined in section 3323.01 of the Revised Code.	15849 15850
(4) "Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a handicap described in that section.	15851 15852 15853
(5) "Applicable vocational education weight" means:	15854
(a) For a student enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code, the multiple specified in that division;	15855 15856 15857
(b) For a student enrolled in vocational education programs or classes described in division (B) of section 3317.014 of the Revised Code, the multiple specified in that division.	15858 15859 15860

(6) "Entitled to attend school" means entitled to attend school in a district under section 3313.64 or 3313.65 of the Revised Code.

(7) A community school student is "included in the DPIA student count" of a school district if the student is entitled to attend school in the district and:

(a) For school years prior to fiscal year 2004, the student's family receives assistance under the Ohio works first program.

(b) For school years in and after fiscal year 2004, the student's family income does not exceed the federal poverty guidelines, as defined in section 5101.46 of the Revised Code, and the student's family receives family assistance, as defined in section 3317.029 of the Revised Code.

(8) "DPIA reduction factor" means the percentage figure, if any, for reducing the per pupil amount of disadvantaged pupil impact aid a community school is entitled to receive pursuant to divisions (D)(5) and (6) of this section in any year, as specified in the school's financial plan for the year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(9) "All-day kindergarten" has the same meaning as in section 3317.029 of the Revised Code.

(10) "SF-3 payment" means the sum of the payments to a school district in a fiscal year under divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022, divisions (J), (P), and (R) of section 3317.024, and sections 3317.029, 3317.0212, 3317.0213, 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of the Revised Code after making the adjustments required by sections 3313.981 and 3313.979, divisions (B), (C), (D), (E), (K), (L), and (M) of section 3317.023, and division (C) of section 3317.20 of the Revised Code.

(B) The state board of education shall adopt rules requiring 15891
both of the following: 15892

(1) The board of education of each city, exempted village, 15893
and local school district to annually report the number of 15894
students entitled to attend school in the district who are 15895
enrolled in grades one through twelve in a community school 15896
established under this chapter, the number of students entitled to 15897
attend school in the district who are enrolled in kindergarten in 15898
a community school, the number of those kindergartners who are 15899
enrolled in all-day kindergarten in their community school, and 15900
for each child, the community school in which the child is 15901
enrolled. 15902

(2) The governing authority of each community school 15903
established under this chapter to annually report all of the 15904
following: 15905

(a) The number of students enrolled in grades one through 15906
twelve and the number of students enrolled in kindergarten in the 15907
school who are not receiving special education and related 15908
services pursuant to an IEP; 15909

(b) The number of enrolled students in grades one through 15910
twelve and the number of enrolled students in kindergarten, who 15911
are receiving special education and related services pursuant to 15912
an IEP; 15913

(c) The number of students reported under division (B)(2)(b) 15914
of this section receiving special education and related services 15915
pursuant to an IEP for a handicap described in each of divisions 15916
(A) to (F) of section 3317.013 of the Revised Code; 15917

(d) The full-time equivalent number of students reported 15918
under divisions (B)(2)(a) and (b) of this section who are enrolled 15919
in vocational education programs or classes described in each of 15920
divisions (A) and (B) of section 3317.014 of the Revised Code that 15921

are provided by the community school; 15922

(e) One-fourth of the number of students reported under 15923
divisions (B)(2)(a) and (b) of this section who are not reported 15924
under division (B)(2)(d) of this section but who are enrolled in 15925
vocational education programs or classes described in each of 15926
divisions (A) and (B) of section 3317.014 of the Revised Code at a 15927
joint vocational school district under a contract between the 15928
community school and the joint vocational school district and are 15929
entitled to attend school in a city, local, or exempted village 15930
school district whose territory is part of the territory of the 15931
joint vocational district; 15932

(f) The number of enrolled preschool handicapped students 15933
receiving special education services in a state-funded unit; 15934

(g) The community school's base formula amount; 15935

(h) For each student, the city, exempted village, or local 15936
school district in which the student is entitled to attend school; 15937

(i) Any DPIA reduction factor that applies to a school year. 15938

(C) From the ~~payments~~ SF-3 payment made to a city, exempted 15939
village, or local school district ~~under Chapter 3317. of the~~ 15940
~~Revised Code~~ and, if necessary, from the payment made to the 15941
district under sections ~~321.14~~ 321.24 and 323.156 of the Revised 15942
Code, the department of education shall annually subtract all the 15943
sum of the following: amounts described in divisions (C)(1) to (5) 15944
of this section. However, the aggregate amount deducted under this 15945
division shall not exceed the sum of the district's SF-3 payment 15946
and its payment under sections 321.24 and 323.156 of the Revised 15947
Code. 15948

(1) An amount equal to the sum of the amounts obtained when, 15949
for each community school where the district's students are 15950
enrolled, the number of the district's students reported under 15951
divisions (B)(2)(a), (b), and (e) of this section who are enrolled 15952

in grades one through twelve, and one-half the number of students 15953
reported under those divisions who are enrolled in kindergarten, 15954
in that community school is multiplied by the base formula amount 15955
of that community school as adjusted by the school district's 15956
cost-of-doing-business factor. 15957

(2) The sum of the amounts calculated under divisions 15958
(C)(2)(a) and (b) of this section: 15959

(a) For each of the district's students reported under 15960
division (B)(2)(c) of this section as enrolled in a community 15961
school in grades one through twelve and receiving special 15962
education and related services pursuant to an IEP for a handicap 15963
described in section 3317.013 of the Revised Code, the product of 15964
the applicable special education weight times the community 15965
school's base formula amount; 15966

(b) For each of the district's students reported under 15967
division (B)(2)(c) of this section as enrolled in kindergarten in 15968
a community school and receiving special education and related 15969
services pursuant to an IEP for a handicap described in section 15970
3317.013 of the Revised Code, one-half of the amount calculated as 15971
prescribed in division (C)(2)(a) of this section. 15972

(3) For each of the district's students reported under 15973
division (B)(2)(d) of this section for whom payment is made under 15974
division (D)(4) of this section, the amount of that payment; 15975

(4) An amount equal to the sum of the amounts obtained when, 15976
for each community school where the district's students are 15977
enrolled, the number of the district's students enrolled in that 15978
community school who are included in the district's DPIA student 15979
count is multiplied by the per pupil amount of disadvantaged pupil 15980
impact aid the school district receives that year pursuant to 15981
division (B) or (C) of section 3317.029 of the Revised Code, as 15982
adjusted by any DPIA reduction factor of that community school. If 15983

the district receives disadvantaged pupil impact aid under 15984
division (B) of that section, the per pupil amount of that aid is 15985
the quotient of the amount the district received under that 15986
division divided by the district's DPIA student count, as defined 15987
in that section. If the district receives disadvantaged pupil 15988
impact aid under division (C) of section 3317.029 of the Revised 15989
Code, the per pupil amount of that aid is the per pupil dollar 15990
amount prescribed for the district in division (C)(1) or (2) of 15991
that section. 15992

(5) An amount equal to the sum of the amounts obtained when, 15993
for each community school where the district's students are 15994
enrolled, the district's per pupil amount of aid received under 15995
division (E) of section 3317.029 of the Revised Code, as adjusted 15996
by any DPIA reduction factor of the community school, is 15997
multiplied by the sum of the following: 15998

(a) The number of the district's students reported under 15999
division (B)(2)(a) of this section who are enrolled in grades one 16000
to three in that community school and who are not receiving 16001
special education and related services pursuant to an IEP; 16002

(b) One-half of the district's students who are enrolled in 16003
all-day or any other kindergarten class in that community school 16004
and who are not receiving special education and related services 16005
pursuant to an IEP; 16006

(c) One-half of the district's students who are enrolled in 16007
all-day kindergarten in that community school and who are not 16008
receiving special education and related services pursuant to an 16009
IEP. 16010

The district's per pupil amount of aid under division (E) of 16011
section 3317.029 of the Revised Code is the quotient of the amount 16012
the district received under that division divided by the 16013
district's kindergarten through third grade ADM, as defined in 16014

that section. 16015

(6) An amount equal to the per pupil state parity aid funding 16016
calculated for the school district under either division (C) or 16017
(D) of section 3317.0217 of the Revised Code multiplied by the sum 16018
of the number of students in grades one through twelve, and 16019
one-half of the number of students in kindergarten, who are 16020
entitled to attend school in the district and are enrolled in a 16021
community school as reported under division (B)(1) of this 16022
section. 16023

(D) The department shall annually pay to a community school 16024
established under this chapter ~~all the sum of the following:~~ 16025
amounts described in divisions (D)(1) to (6) of this section. 16026
However, the sum of the payments to all community schools under 16027
divisions (D)(1), (2), (4), (5), and (6) of this section for the 16028
students entitled to attend school in any particular school 16029
district shall not exceed the sum of that district's SF-3 payment 16030
and its payment under sections 321.24 and 323.156 of the Revised 16031
Code. If the sum of the payments calculated under those divisions 16032
for the students entitled to attend school in a particular school 16033
district exceeds the sum of that district's SF-3 payment and its 16034
payment under sections 321.24 and 323.156 of the Revised Code, the 16035
department shall calculate and apply a proration factor to the 16036
payments to all community schools under those divisions for the 16037
students entitled to attend school in that district. 16038

(1) An amount equal to the sum of the amounts obtained when 16039
the number of students enrolled in grades one through twelve, plus 16040
one-half of the kindergarten students in the school, reported 16041
under divisions (B)(2)(a), (b), and (e) of this section who are 16042
not receiving special education and related services pursuant to 16043
an IEP for a handicap described in section 3317.013 of the Revised 16044
Code is multiplied by the community school's base formula amount, 16045
as adjusted by the cost-of-doing-business factor of the school 16046

district in which the student is entitled to attend school;	16047
(2) The greater of the following:	16048
(a) The aggregate amount that the department paid to the community school in fiscal year 1999 for students receiving special education and related services pursuant to IEPs, excluding federal funds and state disadvantaged pupil impact aid funds;	16049 16050 16051 16052
(b) The sum of the amounts calculated under divisions (D)(2)(b)(i) and (ii) of this section:	16053 16054
(i) For each student reported under division (B)(2)(c) of this section as enrolled in the school in grades one through twelve and receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, the following amount:	16055 16056 16057 16058 16059
(the community school's base formula amount	16060
X the cost-of-doing-business factor	16061
of the district where the student	16062
is entitled to attend school) +	16063
(the applicable special education weight X	16064
the community school's base formula amount);	16065
(ii) For each student reported under division (B)(2)(c) of this section as enrolled in kindergarten and receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, one-half of the amount calculated under the formula prescribed in division (D)(2)(b)(i) of this section.	16066 16067 16068 16069 16070 16071
(3) An amount received from federal funds to provide special education and related services to students in the community school, as determined by the superintendent of public instruction.	16072 16073 16074
(4) For each student reported under division (B)(2)(d) of this section as enrolled in vocational education programs or classes that are described in section 3317.014 of the Revised	16075 16076 16077

Code, are provided by the community school, and are comparable as 16078
determined by the superintendent of public instruction to school 16079
district vocational education programs and classes eligible for 16080
state weighted funding under section 3317.014 of the Revised Code, 16081
an amount equal to the applicable vocational education weight 16082
times the community school's base formula amount times the 16083
percentage of time the student spends in the vocational education 16084
programs or classes. 16085

(5) An amount equal to the sum of the amounts obtained when, 16086
for each school district where the community school's students are 16087
entitled to attend school, the number of that district's students 16088
enrolled in the community school who are included in the 16089
district's DPIA student count is multiplied by the per pupil 16090
amount of disadvantaged pupil impact aid that school district 16091
receives that year pursuant to division (B) or (C) of section 16092
3317.029 of the Revised Code, as adjusted by any DPIA reduction 16093
factor of the community school. The per pupil amount of aid shall 16094
be determined as described in division (C)(4) of this section. 16095

(6) An amount equal to the sum of the amounts obtained when, 16096
for each school district where the community school's students are 16097
entitled to attend school, the district's per pupil amount of aid 16098
received under division (E) of section 3317.029 of the Revised 16099
Code, as adjusted by any DPIA reduction factor of the community 16100
school, is multiplied by the sum of the following: 16101

(a) The number of the district's students reported under 16102
division (B)(2)(a) of this section who are enrolled in grades one 16103
to three in that community school and who are not receiving 16104
special education and related services pursuant to an IEP; 16105

(b) One-half of the district's students who are enrolled in 16106
all-day or any other kindergarten class in that community school 16107
and who are not receiving special education and related services 16108
pursuant to an IEP; 16109

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code shall be determined as described in division (C)(5) of this section.

(7) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of state parity aid funding calculated under either division (C) or (D) of section 3317.0217 of the Revised Code is multiplied by the sum of the number of that district's students enrolled in grades one through twelve, and one-half of the number of that district's students enrolled in kindergarten, in the community school as reported under division (B)(2)(a) and (b) of this section.

(E)(1) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a handicap described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an amount equal to the school's costs for the student in excess of the threshold catastrophic costs.

(2) The community school shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to

the student in accordance with the student's individualized 16141
education program. Any legal fees, court costs, or other costs 16142
associated with any cause of action relating to the student may 16143
not be included in the amount. 16144

(F) A community school may apply to the department of 16145
education for preschool handicapped or gifted unit funding the 16146
school would receive if it were a school district. Upon request of 16147
its governing authority, a community school that received unit 16148
funding as a school district-operated school before it became a 16149
community school shall retain any units awarded to it as a school 16150
district-operated school provided the school continues to meet 16151
eligibility standards for the unit. 16152

A community school shall be considered a school district and 16153
its governing authority shall be considered a board of education 16154
for the purpose of applying to any state or federal agency for 16155
grants that a school district may receive under federal or state 16156
law or any appropriations act of the general assembly. The 16157
governing authority of a community school may apply to any private 16158
entity for additional funds. 16159

(G) A board of education sponsoring a community school may 16160
utilize local funds to make enhancement grants to the school or 16161
may agree, either as part of the contract or separately, to 16162
provide any specific services to the community school at no cost 16163
to the school. 16164

(H) A community school may not levy taxes or issue bonds 16165
secured by tax revenues. 16166

(I) No community school shall charge tuition for the 16167
enrollment of any student. 16168

(J)(1)(a) A community school may borrow money to pay any 16169
necessary and actual expenses of the school in anticipation of the 16170
receipt of any portion of the payments to be received by the 16171

school pursuant to division (D) of this section. The school may 16172
issue notes to evidence such borrowing . The proceeds of the notes 16173
shall be used only for the purposes for which the anticipated 16174
receipts may be lawfully expended by the school. 16175

(b) A school may also borrow money for a term not to exceed 16176
fifteen years for the purpose of acquiring facilities. 16177

(2) Except for any amount guaranteed under section 3318.50 of 16178
the Revised Code, the state is not liable for debt incurred by the 16179
governing authority of a community school. 16180

(K) For purposes of determining the number of students for 16181
which divisions (D)(5) and (6) of this section applies in any 16182
school year, a community school may submit to the department of 16183
job and family services, no later than the first day of March, a 16184
list of the students enrolled in the school. For each student on 16185
the list, the community school shall indicate the student's name, 16186
address, and date of birth and the school district where the 16187
student is entitled to attend school. Upon receipt of a list under 16188
this division, the department of job and family services shall 16189
determine, for each school district where one or more students on 16190
the list is entitled to attend school, the number of students 16191
residing in that school district who were included in the 16192
department's report under section 3317.10 of the Revised Code. The 16193
department shall make this determination on the basis of 16194
information readily available to it. Upon making this 16195
determination and no later than ninety days after submission of 16196
the list by the community school, the department shall report to 16197
the state department of education the number of students on the 16198
list who reside in each school district who were included in the 16199
department's report under section 3317.10 of the Revised Code. In 16200
complying with this division, the department of job and family 16201
services shall not report to the state department of education any 16202
personally identifiable information on any student. 16203

(L) The department of education shall adjust the amounts 16204
subtracted and paid under divisions (C) and (D) of this section to 16205
reflect any enrollment of students in community schools for less 16206
than the equivalent of a full school year. The state board of 16207
education within ninety days after ~~the effective date of this~~ 16208
~~amendment~~ April 8, 2003, shall adopt in accordance with Chapter 16209
119. of the Revised Code rules governing the payments to community 16210
schools under this section including initial payments in a school 16211
year and adjustments and reductions made in subsequent periodic 16212
payments to community schools and corresponding deductions from 16213
school district accounts as provided under divisions (C) and (D) 16214
of this section. For purposes of this section: 16215

(1) A student shall be considered enrolled in the community 16216
school for any portion of the school year the student is 16217
participating at a college under Chapter 3365. of the Revised 16218
Code. 16219

(2) A student shall be considered to be enrolled in a 16220
community school during a school year for the period of time 16221
between the date on which the school both has received 16222
documentation of the student's enrollment from a parent and has 16223
commenced participation in learning opportunities as defined in 16224
the contract with the sponsor. For purposes of applying this 16225
division to a community school student, "learning opportunities" 16226
shall be defined in the contract, which shall describe both 16227
classroom-based and non-classroom-based learning opportunities and 16228
shall be in compliance with criteria and documentation 16229
requirements for student participation which shall be established 16230
by the department. Any student's instruction time in 16231
non-classroom-based learning opportunities shall be certified by 16232
an employee of the community school. A student's enrollment shall 16233
be considered to cease on the date on which any of the following 16234
occur: 16235

(a) The community school receives documentation from a parent 16236
terminating enrollment of the student. 16237

(b) The community school is provided documentation of a 16238
student's enrollment in another public or private school. 16239

(c) The community school ceases to offer learning 16240
opportunities to the student pursuant to the terms of the contract 16241
with the sponsor or the operation of any provision of this 16242
chapter. 16243

(3) A student's percentage of full-time equivalency shall be 16244
considered to be the percentage the hours of learning opportunity 16245
offered to that student is of nine hundred and twenty hours. 16246

(M) The department of education shall reduce the amounts paid 16247
under division (D) of this section to reflect payments made to 16248
colleges under division (B) of section 3365.07 of the Revised 16249
Code. 16250

(N)(1) No student shall be considered enrolled in any 16251
internet- or computer-based community school unless ~~the~~ both of 16252
the following conditions are satisfied: 16253

(a) The student possesses or has been provided with all 16254
required hardware and software materials and all such materials 16255
are fully operational and the so that the student is capable of 16256
fully participating in the learning opportunities specified in the 16257
contract between the school and the school's sponsor as required 16258
by division (A)(23) of section 3314.03 of the Revised Code; 16259

(b) The school is in compliance with division (A)(1) or (2) 16260
of section 3314.032 of the Revised Code, relative to such student. 16261
~~In~~ 16262

(2) In accordance with policies adopted jointly by the 16263
superintendent of public instruction and the auditor of state, the 16264
department shall reduce the amounts otherwise payable under 16265

division (D) of this section to any internet- or computer-based 16266
community school that includes in its program the provision of 16267
computer hardware and software materials to each student, if such 16268
hardware and software materials have not been delivered, 16269
installed, and activated for all students in a timely manner or 16270
other educational materials or services have not been provided 16271
according to the contract between the individual community school 16272
and its sponsor. 16273

The superintendent of public instruction and the auditor of 16274
state shall jointly establish a method for auditing any community 16275
school to which this division pertains to ensure compliance with 16276
this section. 16277

The superintendent, auditor of state, and the governor shall 16278
jointly make recommendations to the general assembly for 16279
legislative changes that may be required to assure fiscal and 16280
academic accountability for such internet- or computer-based 16281
schools. 16282

(O)(1) If the department determines that a review of a 16283
community school's enrollment is necessary, such review shall be 16284
completed and written notice of the findings shall be provided to 16285
the governing authority of the community school and its sponsor 16286
within ninety days of the end of the community school's fiscal 16287
year, unless extended for a period not to exceed thirty additional 16288
days for one of the following reasons: 16289

(a) The department and the community school mutually agree to 16290
the extension. 16291

(b) Delays in data submission caused by either a community 16292
school or its sponsor. 16293

(2) If the review results in a finding that additional 16294
funding is owed to the school, such payment shall be made within 16295
thirty days of the written notice. If the review results in a 16296

finding that the community school owes moneys to the state, the 16297
following procedure shall apply: 16298

(a) Within ten business days of the receipt of the notice of 16299
findings, the community school may appeal the department's 16300
determination to the state board of education or its designee. 16301

(b) The board or its designee shall conduct an informal 16302
hearing on the matter within thirty days of receipt of such an 16303
appeal and shall issue a decision within fifteen days of the 16304
conclusion of the hearing. 16305

(c) If the board has enlisted a designee to conduct the 16306
hearing, the designee shall certify its decision to the board. The 16307
board may accept the decision of the designee or may reject the 16308
decision of the designee and issue its own decision on the matter. 16309

(d) Any decision made by the board under this division is 16310
final. 16311

(3) If it is decided that the community school owes moneys to 16312
the state, the department shall deduct such amount from the 16313
school's future payments in accordance with guidelines issued by 16314
the superintendent of public instruction. 16315

Sec. 3314.083. If the department of education pays a joint 16316
vocational school district under division (G)(4) of section 16317
3317.16 of the Revised Code for excess costs of providing special 16318
education and related services to a handicapped student who is 16319
enrolled in a community school, as calculated under division 16320
(G)(2) of that section, the department shall deduct the amount of 16321
that payment from the amount calculated for payment to the 16322
community school under section 3314.08 of the Revised Code. 16323

Sec. 3316.08. During a school district's fiscal emergency 16324
period, the auditor of state shall determine annually, or at any 16325
other time upon request of the financial planning and supervision 16326

commission, whether the school district will incur an operating 16327
deficit. If the auditor of state determines that a school district 16328
will incur an operating deficit, the auditor of state shall 16329
certify that determination to the superintendent of public 16330
instruction, the financial planning and supervision commission, 16331
and the board of education of the school district. Upon receiving 16332
the auditor of state's certification, the board of education ~~or~~ 16333
and the commission each shall adopt consider adopting a resolution 16334
to submit a ballot question proposing the levy of a tax under 16335
section 5705.194 or 5705.21 or Chapter 5748. of the Revised Code. 16336
After the board of education and the commission consider adopting 16337
a resolution for the levy of such a tax, the board of education 16338
and commission each shall adopt a resolution that explains the 16339
decision to propose or not propose such a levy. Except as 16340
otherwise provided in this division, the tax shall be levied in 16341
the manner prescribed for a tax levied under section 5705.194 or 16342
5705.21 or under Chapter 5748. of the Revised Code. ~~The~~ If the 16343
board of education or commission decides that a tax shall should 16344
be levied, the tax shall be levied for the purpose of paying 16345
current operating expenses of the school district. The question 16346
shall propose that the tax be levied at ~~the~~ a rate required to 16347
~~produce annual revenue sufficient to eliminate the operating~~ 16348
~~deficit as certified by the auditor of state and to repay~~ 16349
~~outstanding loans or other obligations incurred by the board of~~ 16350
~~education for the purpose of reducing or eliminating operating~~ 16351
~~deficits~~ generate an amount that would produce a positive fiscal 16352
year end cash balance not later than the fifth year of the 16353
district's current five-year forecast submitted under section 16354
5705.391 of the Revised Code, as determined by the financial 16355
planning and supervision commission in consultation with the 16356
district treasurer. The rate of a tax levied under section 16357
5705.194 or 5705.21 of the Revised Code shall be determined by the 16358
county auditor, and the rate of a tax levied under section 5748.02 16359

or 5748.08 of the Revised Code shall be determined by the tax 16360
commissioner, upon the request of the commission. The commission 16361
shall determine the election at which the question of the tax 16362
shall appear on the ballot, and the board of education or 16363
commission shall submit a copy of its resolution to the board of 16364
elections not later than seventy-five days prior to the day of 16365
that election. The board of elections conducting the election 16366
shall certify the results of the election to the board of 16367
education and to the financial planning and supervision 16368
commission. 16369

Sec. 3317.01. As used in this section and section 3317.011 of 16370
the Revised Code, "school district," unless otherwise specified, 16371
means any city, local, exempted village, joint vocational, or 16372
cooperative education school district and any educational service 16373
center. 16374

This chapter shall be administered by the state board of 16375
education. The superintendent of public instruction shall 16376
calculate the amounts payable to each school district and shall 16377
certify the amounts payable to each eligible district to the 16378
treasurer of the district as provided by this chapter. No moneys 16379
shall be distributed pursuant to this chapter without the approval 16380
of the controlling board. 16381

The state board of education shall, in accordance with 16382
appropriations made by the general assembly, meet the financial 16383
obligations of this chapter. 16384

Annually, the department of education shall calculate and 16385
report to each school district the district's total state and 16386
local funds for providing an adequate basic education to the 16387
district's nonhandicapped students, utilizing the determination in 16388
section 3317.012 of the Revised Code. In addition, the department 16389
shall calculate and report separately for each school district the 16390

district's total state and local funds for providing an adequate 16391
education for its handicapped students, utilizing the 16392
determinations in both sections 3317.012 and 3317.013 of the 16393
Revised Code. 16394

Not later than the thirty-first day of August of each fiscal 16395
year, the department of education shall provide to each school 16396
district and county MR/DD board a preliminary estimate of the 16397
amount of funding that the department calculates the district will 16398
receive under each of divisions (C)(1) and (4) of section 3317.022 16399
of the Revised Code. No later than the first day of December of 16400
each fiscal year, the department shall update that preliminary 16401
estimate. 16402

Moneys distributed pursuant to this chapter shall be 16403
calculated and paid on a fiscal year basis, beginning with the 16404
first day of July and extending through the thirtieth day of June. 16405
The moneys appropriated for each fiscal year shall be distributed 16406
at least monthly to each school district unless otherwise provided 16407
for. The state board shall submit a yearly distribution plan to 16408
the controlling board at its first meeting in July. The state 16409
board shall submit any proposed midyear revision of the plan to 16410
the controlling board in January. Any year-end revision of the 16411
plan shall be submitted to the controlling board in June. If 16412
moneys appropriated for each fiscal year are distributed other 16413
than monthly, such distribution shall be on the same basis for 16414
each school district. 16415

The total amounts paid each month shall constitute, as nearly 16416
as possible, one-twelfth of the total amount payable for the 16417
entire year. Monthly payments of the district's base cost funding 16418
shall be made by dividing by twelve the amount calculated using 16419
the average daily attendance appropriate for that month under 16420
division (A)(1) of section 3317.022, division (B) of section 16421
3317.16, or division (C) of section 3317.0217 of the Revised Code, 16422

as applicable. Payments made during the first six months of the 16423
fiscal year may be based on an estimate of the amounts payable for 16424
the entire year. Payments made in the last six months shall be 16425
based on the final calculation of the amounts payable to each 16426
school district for that fiscal year. Payments made in the last 16427
six months may be adjusted, if necessary, to correct the amounts 16428
distributed in the first six months, and to reflect enrollment 16429
increases when such are at least three per cent. Except as 16430
otherwise provided, payments under this chapter shall be made only 16431
to those school districts in which: 16432

(A) The school district, except for any educational service 16433
center and any joint vocational or cooperative education school 16434
district, levies for current operating expenses at least twenty 16435
mills. Levies for joint vocational or cooperative education school 16436
districts or county school financing districts, limited to or to 16437
the extent apportioned to current expenses, shall be included in 16438
this qualification requirement. School district income tax levies 16439
under Chapter 5748. of the Revised Code, limited to or to the 16440
extent apportioned to current operating expenses, shall be 16441
included in this qualification requirement to the extent 16442
determined by the tax commissioner under division (D) of section 16443
3317.021 of the Revised Code. 16444

(B) The school year next preceding the fiscal year for which 16445
such payments are authorized meets the requirement of section 16446
3313.48 ~~or 3313.481~~ of the Revised Code, with regard to the 16447
minimum number of days or hours school must be open for 16448
instruction with pupils in attendance, for individualized 16449
parent-teacher conference and reporting periods, and for 16450
professional meetings of teachers. ~~This requirement shall be~~ 16451
~~waived by the superintendent of public instruction if it had been~~ 16452
~~necessary for a school to be closed because of disease epidemic,~~ 16453
~~hazardous weather conditions, inoperability of school buses or~~ 16454

~~other equipment necessary to the school's operation, damage to a 16455
school building, or other temporary circumstances due to utility 16456
failure rendering the school building unfit for school use, 16457
provided that for those school districts operating pursuant to 16458
section 3313.48 of the Revised Code the number of days the school 16459
was actually open for instruction with pupils in attendance and 16460
for individualized parent teacher conference and reporting periods 16461
is not less than one hundred seventy five, or for those school 16462
districts operating on a trimester plan the number of days the 16463
school was actually open for instruction with pupils in attendance 16464
not less than seventy nine days in any trimester, for those school 16465
districts operating on a quarterly plan the number of days the 16466
school was actually open for instruction with pupils in attendance 16467
not less than fifty nine days in any quarter, or for those school 16468
districts operating on a pentamester plan the number of days the 16469
school was actually open for instruction with pupils in attendance 16470
not less than forty four days in any pentamester. 16471~~

A school district shall not be considered to have failed to 16472
comply with this division ~~or section 3313.481 of the Revised Code~~ 16473
because schools were open for instruction but either twelfth grade 16474
students were excused from attendance for up to ~~three days~~ sixteen 16475
and one-half hours or only a portion of the kindergarten students 16476
were in attendance for up to ~~three days~~ fifteen hours in order to 16477
allow for the gradual orientation to school of such students. 16478

~~The superintendent of public instruction shall waive the 16479
requirements of this section with reference to the minimum number 16480
of days or hours school must be in session with pupils in 16481
attendance for the school year succeeding the school year in which 16482
a board of education initiates a plan of operation pursuant to 16483
section 3313.481 of the Revised Code. The minimum requirements of 16484
this section shall again be applicable to such a district 16485
beginning with the school year commencing the second July 16486~~

~~succeeding the initiation of one such plan, and for each school year thereafter.~~ 16487
16488

~~A school district shall not be considered to have failed to comply with this division or section 3313.48 or 3313.481 of the Revised Code because schools were open for instruction but the length of the regularly scheduled school day, for any number of days during the school year, was reduced by not more than two hours due to hazardous weather conditions.~~ 16489
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(C) The school district has on file, and is paying in accordance with, a teachers' salary schedule which complies with section 3317.13 of the Revised Code. 16495
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A board of education or governing board of an educational service center which has not conformed with other law and the rules pursuant thereto, shall not participate in the distribution of funds authorized by sections 3317.022 to 3317.0211, 3317.11, 3317.16, 3317.17, and 3317.19 of the Revised Code, except for good and sufficient reason established to the satisfaction of the state board of education and the state controlling board. 16498
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All funds allocated to school districts under this chapter, except those specifically allocated for other purposes, shall be used to pay current operating expenses only. 16505
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Sec. 3317.012. (A)(1) The general assembly, having analyzed school district expenditure and cost data for fiscal year 1999, performed the calculation described in division (B) of this section, adjusted the results for inflation, and added the amounts described in division (A)(2) of this section, hereby determines that the base cost of an adequate education per pupil for the fiscal year beginning July 1, 2001, is \$4,814. For the ~~five~~ three following fiscal years, the base cost per pupil for each of those years, reflecting an annual rate of inflation of two and eight-tenths per cent, is \$4,949 for fiscal year 2003, \$5,088 for 16508
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fiscal year 2004, and \$5,230 for fiscal year 2005, ~~\$5,376 for~~ 16518
~~fiscal year 2006, and \$5,527 for fiscal year 2007.~~ 16519

(2) The base cost per pupil amounts specified in division 16520
(A)(1) of this section include amounts to reflect the cost to 16521
school districts of increasing the minimum number of high school 16522
academic units required for graduation beginning September 15, 16523
2001, under section 3313.603 of the Revised Code. Analysis of 16524
fiscal year 1999 data revealed that the school districts meeting 16525
the requirements of division (B) of this section on average 16526
required high school students to complete a minimum of nineteen 16527
and eight-tenths units to graduate. The general assembly 16528
determines that the cost of funding the additional two-tenths unit 16529
required by section 3313.603 of the Revised Code is \$12 per pupil 16530
in fiscal year 2002. This amount was added after the calculation 16531
described in division (B) of this section and the adjustment for 16532
inflation from fiscal year 1999 to fiscal year 2002. It is this 16533
total amount, the calculated base cost plus the supplement to pay 16534
for the additional partial unit, that constitutes the base cost 16535
amount specified in division (A)(1) of this section for fiscal 16536
year 2002 and that is inflated to produce the base cost amounts 16537
for fiscal years 2003 through ~~2007~~ 2005. 16538

(B) In determining the base cost stated in division (A) of 16539
this section, capital and debt costs, costs paid for by federal 16540
funds, and costs covered by funds provided for disadvantaged pupil 16541
impact aid and transportation were excluded, as were the effects 16542
on the districts' state funds of the application of the 16543
cost-of-doing-business factors, assuming a seven and one-half per 16544
cent variance. 16545

The base cost for fiscal year 1999 was calculated as the 16546
unweighted average cost per student, on a school district basis, 16547
of educating students who were not receiving vocational education 16548
or services pursuant to Chapter 3323. of the Revised Code and who 16549

were enrolled in a city, exempted village, or local school 16550
district that in fiscal year 1999 met all of the following 16551
criteria: 16552

(1) The district met at least twenty of the following 16553
twenty-seven performance indicators: 16554

(a) A ninety per cent or higher graduation rate; 16555

(b) At least seventy-five per cent of fourth graders 16556
proficient on the mathematics test prescribed under former 16557
division (A)(1) of section 3301.0710 of the Revised Code; 16558

(c) At least seventy-five per cent of fourth graders 16559
proficient on the reading test prescribed under former division 16560
(A)(1) of section 3301.0710 of the Revised Code; 16561

(d) At least seventy-five per cent of fourth graders 16562
proficient on the writing test prescribed under former division 16563
(A)(1) of section 3301.0710 of the Revised Code; 16564

(e) At least seventy-five per cent of fourth graders 16565
proficient on the citizenship test prescribed under former 16566
division (A)(1) of section 3301.0710 of the Revised Code; 16567

(f) At least seventy-five per cent of fourth graders 16568
proficient on the science test prescribed under former division 16569
(A)(1) of section 3301.0710 of the Revised Code; 16570

(g) At least seventy-five per cent of sixth graders 16571
proficient on the mathematics test prescribed under former 16572
division (A)(2) of section 3301.0710 of the Revised Code; 16573

(h) At least seventy-five per cent of sixth graders 16574
proficient on the reading test prescribed under former division 16575
(A)(2) of section 3301.0710 of the Revised Code; 16576

(i) At least seventy-five per cent of sixth graders 16577
proficient on the writing test prescribed under former division 16578
(A)(2) of section 3301.0710 of the Revised Code; 16579

(j) At least seventy-five per cent of sixth graders	16580
proficient on the citizenship test prescribed under <u>former</u>	16581
division (A)(2) of section 3301.0710 of the Revised Code;	16582
(k) At least seventy-five per cent of sixth graders	16583
proficient on the science test prescribed under <u>former</u> division	16584
(A)(2) of section 3301.0710 of the Revised Code;	16585
(l) At least seventy-five per cent of ninth graders	16586
proficient on the mathematics test prescribed under Section 4 of	16587
Am. Sub. S.B. 55 of the 122nd general assembly;	16588
(m) At least seventy-five per cent of ninth graders	16589
proficient on the reading test prescribed under Section 4 of Am.	16590
Sub. S.B. 55 of the 122nd general assembly;	16591
(n) At least seventy-five per cent of ninth graders	16592
proficient on the writing test prescribed under Section 4 of Am.	16593
Sub. S.B. 55 of the 122nd general assembly;	16594
(o) At least seventy-five per cent of ninth graders	16595
proficient on the citizenship test prescribed under Section 4 of	16596
Am. Sub. S.B. 55 of the 122nd general assembly;	16597
(p) At least seventy-five per cent of ninth graders	16598
proficient on the science test prescribed under Section 4 of Am.	16599
Sub. S.B. 55 of the 122nd general assembly;	16600
(q) At least eighty-five per cent of tenth graders proficient	16601
on the mathematics test prescribed under Section 4 of Am. Sub.	16602
S.B. 55 of the 122nd general assembly;	16603
(r) At least eighty-five per cent of tenth graders proficient	16604
on the reading test prescribed under Section 4 of Am. Sub. S.B. 55	16605
of the 122nd general assembly;	16606
(s) At least eighty-five per cent of tenth graders proficient	16607
on the writing test prescribed under Section 4 of Am. Sub. S.B. 55	16608
of the 122nd general assembly;	16609

(t) At least eighty-five per cent of tenth graders proficient on the citizenship test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(u) At least eighty-five per cent of tenth graders proficient on the science test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(v) At least sixty per cent of twelfth graders proficient on the mathematics test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code;

(w) At least sixty per cent of twelfth graders proficient on the reading test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code;

(x) At least sixty per cent of twelfth graders proficient on the writing test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code;

(y) At least sixty per cent of twelfth graders proficient on the citizenship test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code;

(z) At least sixty per cent of twelfth graders proficient on the science test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code;

(aa) An attendance rate for the year of at least ninety-three per cent as defined in section 3302.01 of the Revised Code.

In determining whether a school district met any of the performance standards specified in divisions (B)(1)(a) to (aa) of this section, the general assembly used a rounding procedure previously recommended by the department of education. It is the same rounding procedure the general assembly used in 1998 to determine whether a district had met the standards of former divisions (B)(1)(a) to (r) of this section for purposes of

constructing the previous model based on fiscal year 1996 data. 16640

(2) The district was not among the five per cent of all 16641
districts with the highest income, nor among the five per cent of 16642
all districts with the lowest income. 16643

(3) The district was not among the five per cent of all 16644
districts with the highest valuation per pupil, nor among the five 16645
per cent of all districts with the lowest valuation per pupil. 16646

This model for calculating the base cost of an adequate 16647
education is expenditure-based. The general assembly recognizes 16648
that increases in state funding to school districts since fiscal 16649
year 1996, the fiscal year upon which the general assembly based 16650
its model for calculating state funding to school districts for 16651
fiscal years 1999 through 2001, has increased school district base 16652
cost expenditures for fiscal year 1999, the fiscal year upon which 16653
the general assembly based its model for calculating state funding 16654
for fiscal years 2002 through ~~2007~~ 2005. In the case of school 16655
districts included in the fiscal year 1999 model that also had met 16656
the fiscal year 1996 performance criteria of former division 16657
(B)(1) of this section, the increased state funding may have 16658
driven the districts' expenditures beyond the expenditures that 16659
were actually needed to maintain their educational programs at the 16660
level necessary to maintain their ability to meet the fiscal year 16661
1999 performance criteria of current division (B)(1) of this 16662
section. The general assembly has determined to control for this 16663
effect by stipulating in the later model that the fiscal year 1999 16664
base cost expenditures of the districts that also met the 16665
performance criteria of former division (B)(1) of this section 16666
equals their base cost expenditures per pupil for fiscal year 16667
1996, inflated to fiscal year 1999 using an annual rate of 16668
inflation of two and eight-tenths per cent. However, if this 16669
inflated amount exceeded the district's actual fiscal year 1999 16670
base cost expenditures per pupil, the district's actual fiscal 16671

year 1999 base cost expenditures per pupil were used in the 16672
calculation. For districts in the 1999 model that did not also 16673
meet the performance criteria of former division (B)(1) of this 16674
section, the actual 1999 base cost per pupil expenditures were 16675
used in the calculation of the average district per pupil costs of 16676
the model districts. 16677

~~(C) In July of 2005, and in July of every six years 16678
thereafter, the speaker of the house of representatives and the 16679
president of the senate shall each appoint three members to a 16680
committee to reexamine the cost of an adequate education. No more 16681
than two members from any political party shall represent each 16682
house. The director of budget and management and the 16683
superintendent of public instruction shall serve as nonvoting ex 16684
officio members of the committee. 16685~~

~~The committee shall select a rational methodology for 16686
calculating the costs of an adequate education system for the 16687
ensuing six year period, and shall report the methodology and the 16688
resulting costs to the general assembly. In performing its 16689
function, the committee is not bound by any method used by 16690
previous general assemblies to examine and calculate costs and 16691
instead may utilize any rational method it deems suitable and 16692
reasonable given the educational needs and requirements of the 16693
state at that time. 16694~~

~~The methodology for determining the cost of an adequate 16695
education system shall take into account the basic educational 16696
costs that all districts incur in educating regular students, the 16697
unique needs of special categories of students, and significant 16698
special conditions encountered by certain classifications of 16699
school districts. 16700~~

~~The committee also shall redetermine, for purposes of 16701
updating the parity aid calculation under section 3317.0217 of the 16702
Revised Code, the average number of effective operating mills that 16703~~

~~school districts in the seventieth to ninetieth percentiles of 16704
valuations per pupil collect above the revenues required to 16705
finance their attributed local shares of the calculated cost of an 16706
adequate education. 16707~~

~~Any committee appointed pursuant to this section shall make 16708
its report to the office of budget and management and the general 16709
assembly within one year of its appointment so that the 16710
information is available for use by the office and the general 16711
assembly in preparing the next biennial appropriations act. 16712~~

~~(D)(1) For purposes of this division, an "update year" is the 16713
first fiscal year for which the per pupil base cost of an adequate 16714
education is in effect after being recalculated by the general 16715
assembly. The first update year is fiscal year 2002. The second 16716
update year is fiscal year 2008. 16717~~

~~(2) The general assembly shall recalculate the per pupil base 16718
cost of an adequate education every six years after considering 16719
the recommendations of the committee appointed under division (C) 16720
of this section. At the time of the recalculation, for each of the 16721
five fiscal years following the update year, the general assembly 16722
shall adjust the base cost recalculated for the update year using 16723
an annual rate of inflation that the general assembly determines 16724
appropriate. 16725~~

~~(3) The general assembly shall include, in the act 16726
appropriating state funds for education programs for a fiscal 16727
biennium that begins with an update year, a statement of its 16728
determination of the total state share percentage of base cost and 16729
parity aid funding for the update year. 16730~~

~~(4) During its biennial budget deliberations, the general 16731
assembly shall determine the total state share percentage of base 16732
cost and parity aid funding for each fiscal year of the upcoming 16733
biennium. This determination shall be based on the latest 16734~~

~~projections and data provided by the department of education under 16735
division (D)(6) of this section prior to the enactment of 16736
education appropriations for the upcoming biennium. If, based on 16737
those latest projections and data, the general assembly determines 16738
that the total state share percentage for either or both nonupdate 16739
fiscal years varies more than two and one half percentage points 16740
more or less than the total state share percentage for the most 16741
recent update year, as previously stated by the general assembly 16742
under division (D)(3) of this section, the general assembly shall 16743
determine and enact a method that it considers appropriate to 16744
restrict the estimated variance for each year to within two and 16745
one half percentage points. The general assembly's methods may 16746
include, but are not required to include and need not be limited 16747
to, reexamining the rate of millage charged off as the local share 16748
of base cost funding under divisions (A)(1) and (2) of section 16749
3317.022 of the Revised Code. Regardless of any changes in 16750
charge off millage rates in years between update years, however, 16751
the charge off millage rate for update years shall be twenty three 16752
mills, unless the general assembly determines that a different 16753
millage rate is more appropriate to share the total calculated 16754
base cost between the state and school districts. 16755~~

~~(5) The total state share percentage of base cost and parity 16756
aid funding for any fiscal year is calculated as follows: 16757~~

~~{(Total state base cost + total state parity aid funding) — 16758
statewide charge off amount} / (Total state base cost + total 16759
state parity aid funding) 16760~~

~~Where: 16761~~

~~(a) The total state base cost equals the sum of the base 16762
costs for all school districts for the fiscal year. 16763~~

~~(b) The base cost for each school district equals: 16764~~

~~formula amount X cost of doing business factor X 16765~~

~~the greater of formula ADM or 16766~~

~~three year average formula ADM~~ 16767

~~(c) The total state parity aid funding equals the sum of the~~ 16768
~~amounts paid to all school districts for the fiscal year under~~ 16769
~~section 3317.0217 of the Revised Code.~~ 16770

~~(d) The statewide charge off amount equals the sum of the~~ 16771
~~charge off amounts for all school districts.~~ 16772

~~(e) The charge off amount for each school district is the~~ 16773
~~amount calculated as its local share of base cost funding and~~ 16774
~~deducted from the total calculated base cost to determine the~~ 16775
~~amount of its state payment under divisions (A)(1) and (2) of~~ 16776
~~section 3317.022 of the Revised Code. The charge off amount for~~ 16777
~~each school district in fiscal year 2002 is the product of~~ 16778
~~twenty three mills multiplied by the district's recognized~~ 16779
~~valuation as adjusted, if applicable, under division (A)(2) of~~ 16780
~~section 3317.022 of the Revised Code. If however, in any fiscal~~ 16781
~~year, including fiscal year 2002, a school district's calculated~~ 16782
~~charge off amount exceeds its base cost calculated as described in~~ 16783
~~division (D)(5)(b) of this section, the district's charge off~~ 16784
~~amount shall be deemed to equal its calculated base cost.~~ 16785

~~(6) Whenever requested by the chairperson of the standing~~ 16786
~~committee of the house or representatives or the senate having~~ 16787
~~primary jurisdiction over appropriations, the legislative budget~~ 16788
~~officer, or the director of budget and management, the department~~ 16789
~~of education shall report its latest projections for total base~~ 16790
~~cost, total parity aid funding, and the statewide charge off~~ 16791
~~amount, as those terms are defined in division (D)(5) of this~~ 16792
~~section, for each year of the upcoming fiscal biennium, and all~~ 16793
~~data it used to make the projections.~~ 16794

Sec. 3317.013. This section does not apply to handicapped 16795
preschool students. 16796

Analysis of special education cost data has resulted in a finding that the average special education additional cost per pupil, including the costs of related services, can be expressed as a multiple of the base cost per pupil calculated under section 3317.012 of the Revised Code. The multiples for the following categories of special education programs, as these programs are defined for purposes of Chapter 3323. of the Revised Code, and adjusted as provided in this section, are as follows:

(A) A multiple of 0.2892 for students whose primary or only identified handicap is a speech and language handicap, as this term is defined pursuant to Chapter 3323. of the Revised Code;

(B) A multiple of 0.3691 for students identified as specific learning disabled or developmentally handicapped, as these terms are defined pursuant to Chapter 3323. of the Revised Code, or other health handicapped-minor;

(C) A multiple of 1.7695 for students identified as hearing handicapped, vision impaired, or severe behavior handicapped, as these terms are defined pursuant to Chapter 3323. of the Revised Code;

(D) A multiple of 2.3646 for students identified as orthopedically handicapped, as this term is defined pursuant to Chapter 3323. of the Revised Code or other health handicapped - major;

(E) A multiple of 3.1129 for students identified as multihandicapped, as this term is defined pursuant to Chapter 3323. of the Revised Code;

(F) A multiple of 4.7342 for students identified as autistic, having traumatic brain injuries, or as both visually and hearing disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code.

In fiscal year ~~2002~~ 2004, the multiples specified in 16827
divisions (A) to (F) of this section shall be adjusted by 16828
multiplying them by ~~0.825~~ 0.88. In fiscal year ~~2003~~ 2005, the 16829
multiples specified in those divisions shall be adjusted by 16830
multiplying them by ~~0.875~~ 0.90. 16831

Not later than May 30, 2004, and May 30, 2005, the department 16832
shall submit to the office of budget and management a report that 16833
specifies for each city, local, exempted village, and joint 16834
vocational school district the fiscal year allocation of the state 16835
and local shares of special education and related services 16836
additional weighted funding and federal special education funds 16837
passed through to the district. 16838

Sec. 3317.02. As used in this chapter: 16839

(A) Unless otherwise specified, "school district" means city, 16840
local, and exempted village school districts. 16841

(B) "Formula amount" means the base cost for the fiscal year 16842
specified in section 3317.012 of the Revised Code. 16843

(C) "FTE basis" means a count of students based on full-time 16844
equivalency, in accordance with rules adopted by the department of 16845
education pursuant to section 3317.03 of the Revised Code. In 16846
adopting its rules under this division, the department shall 16847
provide for counting any student in category one, two, three, 16848
four, five, or six special education ADM or in category one or two 16849
vocational education ADM in the same proportion the student is 16850
counted in formula ADM or average daily attendance. 16851

(D)(1) "Formula ADM" means, for a city, local, or exempted 16852
village school district, the number reported pursuant to division 16853
(A) of section 3317.03 of the Revised Code, and for a joint 16854
vocational school district, the number reported pursuant to 16855
division (D) of that section. 16856

(2) "Three-year average formula ADM" means the average of formula ADMs for the current and preceding two fiscal years. However, as applicable in fiscal years 1999 and 2000, the three-year average for city, local, and exempted village school districts shall be determined utilizing the FY 1997 ADM or FY 1998 ADM in lieu of formula ADM for fiscal year 1997 or 1998. In fiscal years 2000 and 2001, the three-year average for joint vocational school districts shall be determined utilizing the average daily membership reported in fiscal years 1998 and 1999 under division (D) of section 3317.03 of the Revised Code in lieu of formula ADM for fiscal years 1998 and 1999.

~~(E)~~(3) "FY 1997 ADM" or "FY 1998 ADM" means the school district's average daily membership reported for the applicable fiscal year under the version of division (A) of section 3317.03 of the Revised Code in effect during that fiscal year, adjusted as follows:

~~(1)~~(a) Minus the average daily membership of handicapped preschool children;

~~(2)~~(b) Minus one-half of the average daily membership attending kindergarten;

~~(3)~~(c) Minus three-fourths of the average daily membership attending a joint vocational school district;

~~(4)~~(d) Plus the average daily membership entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in the district but receiving educational services in approved units from an educational service center or another school district under a compact or a cooperative education agreement, as determined by the department;

~~(5)~~(e) Minus the average daily membership receiving educational services from the district in approved units but entitled under section 3313.64 or 3313.65 of the Revised Code to

attend school in another school district, as determined by the 16888
department. 16889

(E) "Average daily attendance" means the average daily 16890
attendance reported for the prior month under section 3317.034 of 16891
the Revised Code. For purposes of calculating payments under 16892
division (A)(1) of section 3317.022, division (B) of section 16893
3317.16, and section 3317.0217 of the Revised Code in July, 16894
August, and September, the department of education shall use the 16895
average daily attendance reported for the prior May. 16896

(F)(1) "Category one special education ADM" means the average 16897
daily membership of handicapped children receiving special 16898
education services for the handicap specified in division (A) of 16899
section 3317.013 of the Revised Code and reported under division 16900
(B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code. 16901

(2) "Category two special education ADM" means the average 16902
daily membership of handicapped children receiving special 16903
education services for those handicaps specified in division (B) 16904
of section 3317.013 of the Revised Code and reported under 16905
division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised 16906
Code. 16907

(3) "Category three special education ADM" means the average 16908
daily membership of students receiving special education services 16909
for those handicaps specified in division (C) of section 3317.013 16910
of the Revised Code, and reported under division (B)(7) or 16911
(D)(2)(d) of section 3317.03 of the Revised Code. 16912

(4) "Category four special education ADM" means the average 16913
daily membership of students receiving special education services 16914
for those handicaps specified in division (D) of section 3317.013 16915
of the Revised Code and reported under division (B)(8) or 16916
(D)(2)(e) of section 3317.03 of the Revised Code. 16917

(5) "Category five special education ADM" means the average 16918

daily membership of students receiving special education services 16919
for the handicap specified in division (E) of section 3317.013 of 16920
the Revised Code and reported under division (B)(9) or (D)(2)(f) 16921
of section 3317.03 of the Revised Code. 16922

(6) "Category six special education ADM" means the average 16923
daily membership of students receiving special education services 16924
for the handicap specified in division (F) of section 3317.013 of 16925
the Revised Code and reported under division (B)(10) or (D)(2)(g) 16926
of section 3317.03 of the Revised Code. 16927

(7) "Category one vocational education ADM" means the average 16928
daily membership of students receiving vocational education 16929
services described in division (A) of section 3317.014 of the 16930
Revised Code and reported under division (B)(11) or (D)(2)(h) of 16931
section 3317.03 of the Revised Code. 16932

(8) "Category two vocational education ADM" means the average 16933
daily membership of students receiving vocational education 16934
services described in division (B) of section 3317.014 of the 16935
Revised Code and reported under division (B)(12) or (D)(2)(i) of 16936
section 3317.03 of the Revised Code. 16937

(G) "Handicapped preschool child" means a handicapped child, 16938
as defined in section 3323.01 of the Revised Code, who is at least 16939
age three but is not of compulsory school age, as defined in 16940
section 3321.01 of the Revised Code, and who is not currently 16941
enrolled in kindergarten. 16942

(H) "County MR/DD board" means a county board of mental 16943
retardation and developmental disabilities. 16944

(I) "Recognized valuation" means the amount calculated for a 16945
school district pursuant to section 3317.015 of the Revised Code. 16946

(J) "Transportation ADM" means the number of children 16947
reported under division (B)(13) of section 3317.03 of the Revised 16948
Code. 16949

(K) "Average efficient transportation use cost per student" 16950
means a statistical representation of transportation costs as 16951
calculated under division (D)(2) of section 3317.022 of the 16952
Revised Code. 16953

(L) "Taxes charged and payable" means the taxes charged and 16954
payable against real and public utility property after making the 16955
reduction required by section 319.301 of the Revised Code, plus 16956
the taxes levied against tangible personal property. 16957

(M) "Total taxable value" means the sum of the amounts 16958
certified for a city, local, exempted village, or joint vocational 16959
school district under divisions (A)(1) and (2) of section 3317.021 16960
of the Revised Code. 16961

(N) "Cost-of-doing-business factor" means the amount 16962
indicated in this division for the county in which a city, local, 16963
exempted village, or joint vocational school district is located. 16964
If a city, local, or exempted village school district is located 16965
in more than one county, the factor is the amount indicated for 16966
the county to which the district is assigned by the state 16967
department of education. If a joint vocational school district is 16968
located in more than one county, the factor is the amount 16969
indicated for the county in which the joint vocational school with 16970
the greatest formula ADM operated by the district is located. 16971

COST-OF-DOING-BUSINESS 16972

COUNTY	FACTOR	AMOUNT	
Adams	1.0061		16973
Allen	1.0236		16974
Ashland	1.0331		16975
Ashtabula	1.0431		16976
Athens	1.0038		16977
Auglaize	1.0272		16978
Belmont	1.0043		16979
Brown	1.0207		16980

Butler	1.0663	16982
Carroll	1.0148	16983
Champaign	1.0413	16984
Clark	1.0443	16985
Clermont	1.0532	16986
Clinton	1.0296	16987
Columbiana	1.0262	16988
Coshocton	1.0200	16989
Crawford	1.0140	16990
Cuyahoga	1.0672	16991
Darke	1.0343	16992
Defiance	1.0165	16993
Delaware	1.0479	16994
Erie	1.0372	16995
Fairfield	1.0354	16996
Fayette	1.0258	16997
Franklin	1.0519	16998
Fulton	1.0361	16999
Gallia	1.0000	17000
Geauga	1.0528	17001
Greene	1.0407	17002
Guernsey	1.0064	17003
Hamilton	1.0750	17004
Hancock	1.0215	17005
Hardin	1.0348	17006
Harrison	1.0081	17007
Henry	1.0338	17008
Highland	1.0129	17009
Hocking	1.0151	17010
Holmes	1.0238	17011
Huron	1.0305	17012
Jackson	1.0118	17013
Jefferson	1.0067	17014

Knox	1.0258	17015
Lake	1.0556	17016
Lawrence	1.0122	17017
Licking	1.0375	17018
Logan	1.0362	17019
Lorain	1.0521	17020
Lucas	1.0406	17021
Madison	1.0437	17022
Mahoning	1.0384	17023
Marion	1.0263	17024
Medina	1.0595	17025
Meigs	1.0018	17026
Mercer	1.0199	17027
Miami	1.0415	17028
Monroe	1.0097	17029
Montgomery	1.0476	17030
Morgan	1.0128	17031
Morrow	1.0276	17032
Muskingum	1.0145	17033
Noble	1.0103	17034
Ottawa	1.0468	17035
Paulding	1.0140	17036
Perry	1.0154	17037
Pickaway	1.0326	17038
Pike	1.0094	17039
Portage	1.0516	17040
Preble	1.0476	17041
Putnam	1.0243	17042
Richland	1.0213	17043
Ross	1.0085	17044
Sandusky	1.0307	17045
Scioto	1.0029	17046
Seneca	1.0223	17047

Shelby	1.0263	17048
Stark	1.0300	17049
Summit	1.0598	17050
Trumbull	1.0381	17051
Tuscarawas	1.0097	17052
Union	1.0446	17053
Van Wert	1.0133	17054
Vinton	1.0070	17055
Warren	1.0659	17056
Washington	1.0075	17057
Wayne	1.0404	17058
Williams	1.0284	17059
Wood	1.0382	17060
Wyandot	1.0188	17061

(O) "Tax exempt value" of a school district means the amount certified for a school district under division (A)(4) of section 3317.021 of the Revised Code.

(P) "Potential value" of a school district means the recognized valuation of a school district plus the tax exempt value of the district.

(Q) "District median income" means the median Ohio adjusted gross income certified for a school district. On or before the first day of July of each year, the tax commissioner shall certify to the department of education for each city, exempted village, and local school district the median Ohio adjusted gross income of the residents of the school district determined on the basis of tax returns filed for the second preceding tax year by the residents of the district.

(R) "Statewide median income" means the median district median income of all city, exempted village, and local school districts in the state.

(S) "Income factor" for a city, exempted village, or local school district means the quotient obtained by dividing that district's median income by the statewide median income.

(T) "Medically fragile child" means a child to whom all of the following apply:

(1) The child requires the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of the child's medical condition.

(2) The child requires the services of a registered nurse on a daily basis.

(3) The child is at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for the mentally retarded.

(U) A child may be identified as "other health handicapped-major" if the child's condition meets the definition of "other health impaired" established in rules adopted by the state board of education prior to ~~the effective date of this amendment~~ July 1, 2001, and if either of the following apply:

(1) The child is identified as having a medical condition that is among those listed by the superintendent of public instruction as conditions where a substantial majority of cases fall within the definition of "medically fragile child." The superintendent of public instruction shall issue an initial list no later than September 1, 2001.

(2) The child is determined by the superintendent of public instruction to be a medically fragile child. A school district superintendent may petition the superintendent of public instruction for a determination that a child is a medically fragile child.

(V) A child may be identified as "other health

handicapped-minor" if the child's condition meets the definition 171109
of "other health impaired" established in rules adopted by the 171110
state board of education prior to ~~the effective date of this~~ 171111
~~amendment~~ July 1, 2001, but the child's condition does not meet 171112
either of the conditions specified in division (U)(1) or (2) of 171113
this section. 171114

Sec. 3317.022. (A)(1) The department of education shall 171115
compute and distribute state base cost funding to each school 171116
district for the fiscal year in accordance with the following 171117
formula, making any adjustment required by division (A)(2) of this 171118
section and using the information obtained under section 3317.021 171119
of the Revised Code in the calendar year in which the fiscal year 171120
begins. 171121

Compute the following for each eligible district: 171122

$$\{(\text{cost-of-doing-business factor X}$$
 171123
the formula amount X ~~(the greater of formula ADM~~ 171124
~~or three-year average formula ADM)} -~~ 171125
average daily attendance) - 171126
(.023 X recognized valuation) 171127

If the difference obtained is a negative number, the 171128
district's computation shall be zero. 171129

(2)(a) For each school district for which the tax exempt 171130
value of the district equals or exceeds twenty-five per cent of 171131
the potential value of the district, the department of education 171132
shall calculate the difference between the district's tax exempt 171133
value and twenty-five per cent of the district's potential value. 171134

(b) For each school district to which division (A)(2)(a) of 171135
this section applies, the department shall adjust the recognized 171136
valuation used in the calculation under division (A)(1) of this 171137
section by subtracting from it the amount calculated under 171138
division (A)(2)(a) of this section. 171139

(B) As used in this section:	17140
(1) The "total special education weight" for a district means the sum of the following amounts:	17141 17142
(a) The district's category one special education ADM multiplied by the multiple specified in division (A) of section 3317.013 of the Revised Code;	17143 17144 17145
(b) The district's category two special education ADM multiplied by the multiple specified in division (B) of section 3317.013 of the Revised Code;	17146 17147 17148
(c) The district's category three special education ADM multiplied by the multiple specified in division (C) of section 3317.013 of the Revised Code;	17149 17150 17151
(d) The district's category four special education ADM multiplied by the multiple specified in division (D) of section 3317.013 of the Revised Code;	17152 17153 17154
(e) The district's category five special education ADM multiplied by the multiple specified in division (E) of section 3317.013 of the Revised Code;	17155 17156 17157
(f) The district's category six special education ADM multiplied by the multiple specified in division (F) of section 3317.013 of the Revised Code.	17158 17159 17160
(2) "State share percentage" means the <u>monthly</u> percentage calculated for a district as follows:	17161 17162
(a) Calculate the state base cost funding amount for the district for the fiscal year under division (A) of this section. If the district would not receive any state base cost funding for that year under that division, the district's state share percentage is zero.	17163 17164 17165 17166 17167
(b) If the district would receive state base cost funding under that division, divide that amount by an amount equal to the	17168 17169

following:	17170
Cost-of-doing-business factor X	17171
the formula amount X (the greater of formula	17172
ADM or three year average formula ADM)	17173
<u>average daily attendance</u>	17174
The resultant number is the district's state share	17175
percentage.	17176
(3) "Related services" includes:	17177
(a) Child study, special education supervisors and	17178
coordinators, speech and hearing services, adaptive physical	17179
development services, occupational or physical therapy, teacher	17180
assistants for handicapped children whose handicaps are described	17181
in division (B) of section 3317.013 or division (F)(3) of section	17182
3317.02 of the Revised Code, behavioral intervention, interpreter	17183
services, work study, nursing services, and specialized	17184
integrative services as those terms are defined by the department;	17185
(b) Speech and language services provided to any student with	17186
a handicap, including any student whose primary or only handicap	17187
is a speech and language handicap;	17188
(c) Any related service not specifically covered by other	17189
state funds but specified in federal law, including but not	17190
limited to, audiology and school psychological services;	17191
(d) Any service included in units funded under former	17192
division (O)(1) of section 3317.023 of the Revised Code;	17193
(e) Any other related service needed by handicapped children	17194
in accordance with their individualized education plans.	17195
(4) The "total vocational education weight" for a district	17196
means the sum of the following amounts:	17197
(a) The district's category one vocational education ADM	17198
multiplied by the multiple specified in division (A) of section	17199

3317.014 of the Revised Code;	17200
(b) The district's category two vocational education ADM	17201
multiplied by the multiple specified in division (B) of section	17202
3317.014 of the Revised Code.	17203
(C)(1) The department shall compute and distribute state	17204
special education and related services additional weighted costs	17205
funds to each school district in accordance with the following	17206
formula:	17207
The district's state share percentage	17208
X the formula amount for the year	17209
for which the aid is calculated	17210
X the district's total special education weight	17211
(2) The attributed local share of special education and	17212
related services additional weighted costs equals:	17213
(1 - the district's state share percentage) X	17214
the district's total special education weight X	17215
the formula amount	17216
(3)(a) The department shall compute and pay in accordance	17217
with this division additional state aid to school districts for	17218
students in categories two through six special education ADM. If a	17219
district's costs for the fiscal year for a student in its	17220
categories two through six special education ADM exceed the	17221
threshold catastrophic cost for serving the student, the district	17222
may submit to the superintendent of public instruction	17223
documentation, as prescribed by the superintendent, of all its	17224
costs for that student. Upon submission of documentation for a	17225
student of the type and in the manner prescribed, the department	17226
shall pay to the district an amount equal to the sum of the	17227
following:	17228
(i) One-half of the district's costs for the student in	17229
excess of the threshold catastrophic cost;	17230

(ii) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage.

(b) For purposes of division (C)(3)(a) of this section, the threshold catastrophic cost for serving a student equals:

(i) For a student in the school district's category two, three, four, or five special education ADM, twenty-five thousand dollars in fiscal year 2002 and twenty-five thousand seven hundred dollars in fiscal ~~year~~ years 2003, 2004, and 2005;

(ii) For a student in the district's category six special education ADM, thirty thousand dollars in fiscal year 2002 and thirty thousand eight hundred forty dollars in fiscal ~~year~~ years 2003, 2004, and 2005.

~~The threshold catastrophic costs for fiscal year 2003 represent a two and eight tenths per cent inflationary increase over fiscal year 2002.~~

(c) The district shall only report under division (C)(3)(a) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

~~(5)~~(4)(a) As used in this division, the "personnel allowance" means thirty thousand dollars in fiscal years 2002 ~~and~~, 2003, 2004, and 2005.

(b) For the provision of speech services to students, including students who do not have individualized education programs prepared for them under Chapter 3323. of the Revised Code, and for no other purpose, the department of education shall

pay each school district an amount calculated under the following 17261
formula: 17262

(formula ADM divided by 2000) X 17263

the personnel allowance X the state share percentage 17264

(5) In any fiscal year, a school district shall spend for 17265
purposes that the department designates as approved for special 17266
education and related services expenses at least the amount 17267
calculated as follows: 17268

(cost-of-doing-business factor X 17269
formula amount X the sum of categories 17270
one through six special education ADM) + 17271
(total special education weight X formula amount) 17272

The purposes approved by the department for special education 17273
expenses shall include, but shall not be limited to, 17274
identification of handicapped children, compliance with state 17275
rules governing the education of handicapped children and 17276
prescribing the continuum of program options for handicapped 17277
children, and the portion of the school district's overall 17278
administrative and overhead costs that are attributable to the 17279
district's special education student population. 17280

The department shall require school districts to report data 17281
annually to allow for monitoring compliance with division (C)(5) 17282
of this section. The department shall annually report to the 17283
governor and the general assembly the amount of money spent by 17284
each school district for special education and related services. 17285

(D)(1) As used in this division: 17286

(a) "Daily bus miles per student" equals the number of bus 17287
miles traveled per day, divided by transportation base. 17288

(b) "Transportation base" equals total student count as 17289
defined in section 3301.011 of the Revised Code, minus the number 17290
of students enrolled in preschool handicapped units, plus the 17291

number of nonpublic school students included in transportation	17292
ADM.	17293
(c) "Transported student percentage" equals transportation	17294
ADM divided by transportation base.	17295
(d) "Transportation cost per student" equals total operating	17296
costs for board-owned or contractor-operated school buses divided	17297
by transportation base.	17298
(2) Analysis of student transportation cost data has resulted	17299
in a finding that an average efficient transportation use cost per	17300
student can be calculated by means of a regression formula that	17301
has as its two independent variables the number of daily bus miles	17302
per student and the transported student percentage. For fiscal	17303
year 1998 transportation cost data, the average efficient	17304
transportation use cost per student is expressed as follows:	17305
$51.79027 + (139.62626 \times \text{daily bus miles per student}) +$	17306
$(116.25573 \times \text{transported student percentage})$	17307
The department of education shall annually determine the	17308
average efficient transportation use cost per student in	17309
accordance with the principles stated in division (D)(2) of this	17310
section, updating the intercept and regression coefficients of the	17311
regression formula modeled in this division, based on an annual	17312
statewide analysis of each school district's daily bus miles per	17313
student, transported student percentage, and transportation cost	17314
per student data. The department shall conduct the annual update	17315
using data, including daily bus miles per student, transported	17316
student percentage, and transportation cost per student data, from	17317
the prior fiscal year. The department shall notify the office of	17318
budget and management of such update by the fifteenth day of	17319
February of each year.	17320
(3) In addition to funds paid under divisions (A), (C), and	17321
(E) of this section, each district with a transported student	17322

percentage greater than zero shall receive a payment equal to a 17323
percentage of the product of the district's transportation base 17324
from the prior fiscal year times the annually updated average 17325
efficient transportation use cost per student, times an inflation 17326
factor of two and eight tenths per cent to account for the 17327
one-year difference between the data used in updating the formula 17328
and calculating the payment and the year in which the payment is 17329
made. The percentage shall be the following percentage of that 17330
product specified for the corresponding fiscal year: 17331

FISCAL YEAR	PERCENTAGE	
2000	52.5%	17332
2001	55%	17333
2002	57.5%	17334
2003 and thereafter	The greater of 60% or the district's state share percentage	17335 17336

The payments made under division (D)(3) of this section each 17337
year shall be calculated based on all of the same prior year's 17338
data used to update the formula. 17339

(4) In addition to funds paid under divisions (D)(2) and (3) 17340
of this section, a school district shall receive a rough road 17341
subsidy if both of the following apply: 17342

(a) Its county rough road percentage is higher than the 17343
statewide rough road percentage, as those terms are defined in 17344
division (D)(5) of this section; 17345

(b) Its district student density is lower than the statewide 17346
student density, as those terms are defined in that division. 17347

(5) The rough road subsidy paid to each district meeting the 17348
qualifications of division (D)(4) of this section shall be 17349
calculated in accordance with the following formula: 17350

(per rough mile subsidy X total rough road miles) X 17351

density multiplier 17352

where: 17353

(a) "Per rough mile subsidy" equals the amount calculated in 17354
accordance with the following formula: 17355

0.75 - {0.75 X [(maximum rough road percentage - 17356
17357
county rough road percentage)/(maximum rough road percentage - 17358
statewide rough road percentage)]} 17359

(i) "Maximum rough road percentage" means the highest county 17360
rough road percentage in the state. 17361

(ii) "County rough road percentage" equals the percentage of 17362
the mileage of state, municipal, county, and township roads that 17363
is rated by the department of transportation as type A, B, C, E2, 17364
or F in the county in which the school district is located or, if 17365
the district is located in more than one county, the county to 17366
which it is assigned for purposes of determining its 17367
cost-of-doing-business factor. 17368

(iii) "Statewide rough road percentage" means the percentage 17369
of the statewide total mileage of state, municipal, county, and 17370
township roads that is rated as type A, B, C, E2, or F by the 17371
department of transportation. 17372

(b) "Total rough road miles" means a school district's total 17373
bus miles traveled in one year times its county rough road 17374
percentage. 17375

(c) "Density multiplier" means a figure calculated in 17376
accordance with the following formula: 17377

1 - [(minimum student density - district student 17378
density)/(minimum student density - 17379
statewide student density)] 17380

(i) "Minimum student density" means the lowest district 17381

student density in the state. 17382

(ii) "District student density" means a school district's 17383
transportation base divided by the number of square miles in the 17384
district. 17385

(iii) "Statewide student density" means the sum of the 17386
transportation bases for all school districts divided by the sum 17387
of the square miles in all school districts. 17388

(6) In addition to funds paid under divisions (D)(2) to (5) 17389
of this section, each district shall receive in accordance with 17390
rules adopted by the state board of education a payment for 17391
students transported by means other than board-owned or 17392
contractor-operated buses and whose transportation is not funded 17393
under division (J) of section 3317.024 of the Revised Code. The 17394
rules shall include provisions for school district reporting of 17395
such students. 17396

(E)(1) The department shall compute and distribute state 17397
vocational education additional weighted costs funds to each 17398
school district in accordance with the following formula: 17399

state share percentage X 17400

the formula amount X 17401

total vocational education weight 17402

In any fiscal year, a school district receiving funds under 17403
division (E)(1) of this section shall spend those funds only for 17404
the purposes that the department designates as approved for 17405
vocational education expenses. 17406

(2) The department shall compute for each school district 17407
state funds for vocational education associated services in 17408
accordance with the following formula: 17409

state share percentage X .05 X 17410

the formula amount X the sum of categories one and two 17411

vocational education ADM 17412

In any fiscal year, a school district receiving funds under 17413
division (E)(2) of this section, or through a transfer of funds 17414
pursuant to division (L) of section 3317.023 of the Revised Code, 17415
shall spend those funds only for the purposes that the department 17416
designates as approved for vocational education associated 17417
services expenses, which may include such purposes as 17418
apprenticeship coordinators, coordinators for other vocational 17419
education services, vocational evaluation, and other purposes 17420
designated by the department. The department may deny payment 17421
under division (E)(2) of this section to any district that the 17422
department determines is not operating those services or is using 17423
funds paid under division (E)(2) of this section, or through a 17424
transfer of funds pursuant to division (L) of section 3317.023 of 17425
the Revised Code, for other purposes. 17426

(F) Beginning in fiscal year 2003, the actual local share in 17427
any fiscal year for the combination of special education and 17428
related services additional weighted costs funding calculated 17429
under division (C)(1) of this section, transportation funding 17430
calculated under divisions (D)(2) and (3) of this section, and 17431
vocational education and associated services additional weighted 17432
costs funding calculated under divisions (E)(1) and (2) of this 17433
section shall not exceed for any school district the product of 17434
three mills times the district's recognized valuation. Beginning 17435
in fiscal year 2003, the department annually shall pay each school 17436
district as an excess cost supplement any amount by which the sum 17437
of the district's attributed local shares for that funding exceeds 17438
that product. For purposes of calculating the excess cost 17439
supplement: 17440

(1) The attributed local share for special education and 17441
related services additional weighted costs funding is the amount 17442
specified in division (C)(2) of this section. 17443

(2) The attributed local share of transportation funding 17444

equals the difference of the total amount calculated for the 17445
district using the formula developed under division (D)(2) of this 17446
section minus the actual amount paid to the district after 17447
applying the percentage specified in division (D)(3) of this 17448
section. 17449

(3) The attributed local share of vocational education and 17450
associated services additional weighted costs funding is the 17451
amount determined as follows: 17452

(1 - state share percentage) X 17453
[(total vocational education weight X the formula amount) + 17454
the payment under division (E)(2) of this section] 17455

Sec. 3317.023. (A) Notwithstanding section 3317.022 of the 17456
Revised Code, the amounts required to be paid to a district under 17457
this chapter shall be adjusted by the amount of the computations 17458
made under divisions (B) to ~~(L)~~(M) of this section. 17459

As used in this section: 17460

(1) "Classroom teacher" means a licensed employee who 17461
provides direct instruction to pupils, excluding teachers funded 17462
from money paid to the district from federal sources; educational 17463
service personnel; and vocational and special education teachers. 17464

(2) "Educational service personnel" shall not include such 17465
specialists funded from money paid to the district from federal 17466
sources or assigned full-time to vocational or special education 17467
students and classes and may only include those persons employed 17468
in the eight specialist areas in a pattern approved by the 17469
department of education under guidelines established by the state 17470
board of education. 17471

(3) "Annual salary" means the annual base salary stated in 17472
the state minimum salary schedule for the performance of the 17473
teacher's regular teaching duties that the teacher earns for 17474

services rendered for the first full week of October of the fiscal 17475
year for which the adjustment is made under division (C) of this 17476
section. It shall not include any salary payments for supplemental 17477
teachers contracts. 17478

(4) "Regular student population" means the formula ADM plus 17479
the number of students reported as enrolled in the district 17480
pursuant to division (A)(1) of section 3313.981 of the Revised 17481
Code; minus the number of students reported under division (A)(2) 17482
of section 3317.03 of the Revised Code; minus the FTE of students 17483
reported under division (B)~~(5)~~, (6), (7), (8), (9), (10), (11), or 17484
(12) of that section who are enrolled in a vocational education 17485
class or receiving special education; and minus one-fourth of the 17486
students enrolled concurrently in a joint vocational school 17487
district. 17488

(5) "State share percentage" has the same meaning as in 17489
section 3317.022 of the Revised Code. 17490

(6) "VEPD" means a school district or group of school 17491
districts designated by the department of education as being 17492
responsible for the planning for and provision of vocational 17493
education services to students within the district or group. 17494

(7) "Lead district" means a school district, including a 17495
joint vocational school district, designated by the department as 17496
a VEPD, or designated to provide primary vocational education 17497
leadership within a VEPD composed of a group of districts. 17498

(B) If the district employs less than one full-time 17499
equivalent classroom teacher for each twenty-five pupils in the 17500
regular student population in any school district, deduct the sum 17501
of the amounts obtained from the following computations: 17502

(1) Divide the number of the district's full-time equivalent 17503
classroom teachers employed by one twenty-fifth; 17504

(2) Subtract the quotient in (1) from the district's regular 17505

student population; 17506

(3) Multiply the difference in (2) by seven hundred fifty-two 17507
dollars. 17508

(C) If a positive amount, add one-half of the amount obtained 17509
by multiplying the number of full-time equivalent classroom 17510
teachers by: 17511

(1) The mean annual salary of all full-time equivalent 17512
classroom teachers employed by the district at their respective 17513
training and experience levels minus; 17514

(2) The mean annual salary of all such teachers at their 17515
respective levels in all school districts receiving payments under 17516
this section. 17517

The number of full-time equivalent classroom teachers used in 17518
this computation shall not exceed one twenty-fifth of the 17519
district's regular student population. In calculating the 17520
district's mean salary under this division, those full-time 17521
equivalent classroom teachers with the highest training level 17522
shall be counted first, those with the next highest training level 17523
second, and so on, in descending order. Within the respective 17524
training levels, teachers with the highest years of service shall 17525
be counted first, the next highest years of service second, and so 17526
on, in descending order. 17527

(D) This division does not apply to a school district that 17528
has entered into an agreement under division (A) of section 17529
3313.42 of the Revised Code. Deduct the amount obtained from the 17530
following computations if the district employs fewer than five 17531
full-time equivalent educational service personnel, including 17532
elementary school art, music, and physical education teachers, 17533
counselors, librarians, visiting teachers, school social workers, 17534
and school nurses for each one thousand pupils in the regular 17535
student population: 17536

(1) Divide the number of full-time equivalent educational service personnel employed by the district by five one-thousandths; 17537
17538
17539

(2) Subtract the quotient in (1) from the district's regular student population; 17540
17541

(3) Multiply the difference in (2) by ninety-four dollars. 17542

(E) If a local school district, or a city or exempted village school district to which a governing board of an educational service center provides services pursuant to section 3313.843 of the Revised Code, deduct the amount of the payment required for the reimbursement of the governing board under section 3317.11 of the Revised Code. 17543
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(F)(1) If the district is required to pay to or entitled to receive tuition from another school district under division (C)(2) or (3) of section 3313.64 or section 3313.65 of the Revised Code, or if the superintendent of public instruction is required to determine the correct amount of tuition and make a deduction or credit under section 3317.08 of the Revised Code, deduct and credit such amounts as provided in division (I) of section 3313.64 or section 3317.08 of the Revised Code. 17549
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(2) For each child for whom the district is responsible for tuition or payment under division (A)(1) of section 3317.082 or section 3323.091 of the Revised Code, deduct the amount of tuition or payment for which the district is responsible. 17557
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17559
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(G) If the district has been certified by the superintendent of public instruction under section 3313.90 of the Revised Code as not in compliance with the requirements of that section, deduct an amount equal to ten per cent of the amount computed for the district under section 3317.022 of the Revised Code. 17561
17562
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(H) If the district has received a loan from a commercial 17566

lending institution for which payments are made by the 17567
superintendent of public instruction pursuant to division (E)(3) 17568
of section 3313.483 of the Revised Code, deduct an amount equal to 17569
such payments. 17570

(I)(1) If the district is a party to an agreement entered 17571
into under division (D), (E), or (F) of section 3311.06 or 17572
division (B) of section 3311.24 of the Revised Code and is 17573
obligated to make payments to another district under such an 17574
agreement, deduct an amount equal to such payments if the district 17575
school board notifies the department in writing that it wishes to 17576
have such payments deducted. 17577

(2) If the district is entitled to receive payments from 17578
another district that has notified the department to deduct such 17579
payments under division (I)(1) of this section, add the amount of 17580
such payments. 17581

(J) If the district is required to pay an amount of funds to 17582
a cooperative education district pursuant to a provision described 17583
by division (B)(4) of section 3311.52 or division (B)(8) of 17584
section 3311.521 of the Revised Code, deduct such amounts as 17585
provided under that provision and credit those amounts to the 17586
cooperative education district for payment to the district under 17587
division (B)(1) of section 3317.19 of the Revised Code. 17588

(K)(1) If a district is educating a student entitled to 17589
attend school in another district pursuant to a shared education 17590
contract, compact, or cooperative education agreement other than 17591
an agreement entered into pursuant to section 3313.842 of the 17592
Revised Code, credit to that educating district on an FTE basis 17593
both of the following: 17594

(a) An amount equal to the formula amount times the cost of 17595
doing business factor of the school district where the student is 17596
entitled to attend school pursuant to section 3313.64 or 3313.65 17597

of the Revised Code;	17598
(b) An amount equal to the formula amount times the state share percentage times any multiple applicable to the student pursuant to section 3317.013 or 3317.014 of the Revised Code.	17599 17600 17601
(2) Deduct any amount credited pursuant to division (K)(1) of this section from amounts paid to the school district in which the student is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.	17602 17603 17604 17605
(3) If the district is required by a shared education contract, compact, or cooperative education agreement to make payments to an educational service center, deduct the amounts from payments to the district and add them to the amounts paid to the service center pursuant to section 3317.11 of the Revised Code.	17606 17607 17608 17609 17610
(L)(1) If a district, including a joint vocational school district, is a lead district of a VEPD, credit to that district the amounts calculated for all the school districts within that VEPD pursuant to division (E)(2) of section 3317.022 of the Revised Code.	17611 17612 17613 17614 17615
(2) Deduct from each appropriate district that is not a lead district, the amount attributable to that district that is credited to a lead district under division (L)(1) of this section.	17616 17617 17618
<u>(M) If the department pays a joint vocational school district under division (G)(4) of section 3317.16 of the Revised Code for excess costs of providing special education and related services to a handicapped student, as calculated under division (G)(2) of that section, the department shall deduct the amount of that payment from the city, local, or exempted village school district that is responsible as specified in that section for the excess costs.</u>	17619 17620 17621 17622 17623 17624 17625 17626
Sec. 3317.024. In addition to the moneys paid to eligible	17627

school districts pursuant to section 3317.022 of the Revised Code, 17628
moneys appropriated for the education programs in divisions (A) to 17629
(H), (J) to (L), (O), (P), and (R) of this section shall be 17630
distributed to school districts meeting the requirements of 17631
section 3317.01 of the Revised Code; in the case of divisions (J) 17632
and (P) of this section, to educational service centers as 17633
provided in section 3317.11 of the Revised Code; in the case of 17634
divisions (E), (M), and (N) of this section, to county MR/DD 17635
boards; in the case of division (R) of this section, to joint 17636
vocational school districts; in the case of division (K) of this 17637
section, to cooperative education school districts; and in the 17638
case of division (Q) of this section, to the institutions defined 17639
under section 3317.082 of the Revised Code providing elementary or 17640
secondary education programs to children other than children 17641
receiving special education under section 3323.091 of the Revised 17642
Code. The following shall be distributed monthly, quarterly, or 17643
annually as may be determined by the state board of education: 17644

(A) A per pupil amount to each school district that 17645
establishes a summer school remediation program that complies with 17646
rules of the state board of education. 17647

(B) An amount for each island school district and each joint 17648
state school district for the operation of each high school and 17649
each elementary school maintained within such district and for 17650
capital improvements for such schools. Such amounts shall be 17651
determined on the basis of standards adopted by the state board of 17652
education. 17653

(C) An amount for each school district operating classes for 17654
children of migrant workers who are unable to be in attendance in 17655
an Ohio school during the entire regular school year. The amounts 17656
shall be determined on the basis of standards adopted by the state 17657
board of education, except that payment shall be made only for 17658
subjects regularly offered by the school district providing the 17659

classes. 17660

(D) An amount for each school district with guidance, 17661
testing, and counseling programs approved by the state board of 17662
education. The amount shall be determined on the basis of 17663
standards adopted by the state board of education. 17664

(E) An amount for the emergency purchase of school buses as 17665
provided for in section 3317.07 of the Revised Code; 17666

(F) An amount for each school district required to pay 17667
tuition for a child in an institution maintained by the department 17668
of youth services pursuant to section 3317.082 of the Revised 17669
Code, provided the child was not included in the calculation of 17670
the district's average daily membership for the preceding school 17671
year. 17672

(G) In fiscal year 2000 only, an amount to each school 17673
district for supplemental salary allowances for each licensed 17674
employee except those licensees serving as superintendents, 17675
assistant superintendents, principals, or assistant principals, 17676
whose term of service in any year is extended beyond the term of 17677
service of regular classroom teachers, as described in section 17678
3301.0725 of the Revised Code; 17679

(H) An amount for adult basic literacy education for each 17680
district participating in programs approved by the state board of 17681
education. The amount shall be determined on the basis of 17682
standards adopted by the state board of education. 17683

(I) Notwithstanding section 3317.01 of the Revised Code, but 17684
only until June 30, 1999, to each city, local, and exempted 17685
village school district, an amount for conducting driver education 17686
courses at high schools for which the state board of education 17687
prescribes minimum standards and to joint vocational and 17688
cooperative education school districts and educational service 17689
centers, an amount for conducting driver education courses to 17690

pupils enrolled in a high school for which the state board 17691
prescribes minimum standards. No payments shall be made under this 17692
division after June 30, 1999. 17693

(J) An amount for the approved cost of transporting 17694
developmentally handicapped pupils whom it is impossible or 17695
impractical to transport by regular school bus in the course of 17696
regular route transportation provided by the district or service 17697
center. No district or service center is eligible to receive a 17698
payment under this division for the cost of transporting any pupil 17699
whom it transports by regular school bus and who is included in 17700
the district's transportation ADM. The state board of education 17701
shall establish standards and guidelines for use by the department 17702
of education in determining the approved cost of such 17703
transportation for each district or service center. 17704

(K) An amount to each school district, including each 17705
cooperative education school district, pursuant to section 3313.81 17706
of the Revised Code to assist in providing free lunches to needy 17707
children and an amount to assist needy school districts in 17708
purchasing necessary equipment for food preparation. The amounts 17709
shall be determined on the basis of rules adopted by the state 17710
board of education. 17711

(L) An amount to each school district, for each pupil 17712
attending a chartered nonpublic elementary or high school within 17713
the district. The amount shall equal the amount appropriated for 17714
the implementation of section 3317.06 of the Revised Code divided 17715
by the average daily membership in grades kindergarten through 17716
twelve in nonpublic elementary and high schools within the state 17717
as determined during the first full week in October of each school 17718
year. 17719

(M) An amount for each county MR/DD board, distributed on the 17720
basis of standards adopted by the state board of education, for 17721
the approved cost of transportation required for children 17722

attending special education programs operated by the county MR/DD board under section 3323.09 of the Revised Code; 17723
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(N) An amount for each county MR/DD board, distributed on the basis of standards adopted by the state board of education, for supportive home services for preschool children; 17725
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(O) An amount for each school district that establishes a mentor teacher program that complies with rules of the state board of education. No school district shall be required to establish or maintain such a program in any year unless sufficient funds are appropriated to cover the district's total costs for the program. 17728
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(P) An amount to each school district or educational service center for the total number of gifted units approved pursuant to section 3317.05 of the Revised Code. The amount for each such unit shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to ~~the effective date of this amendment~~ July 1, 2001, plus fifteen per cent of that minimum salary amount, plus two thousand six hundred seventy-eight dollars. 17733
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(Q) An amount to each institution defined under section 3317.082 of the Revised Code providing elementary or secondary education to children other than children receiving special education under section 3323.091 of the Revised Code. This amount for any institution in any fiscal year shall equal the total of all tuition amounts required to be paid to the institution under division (A)(1) of section 3317.082 of the Revised Code. 17743
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(R) A grant to each school district and joint vocational school district that operates a "graduation, reality, and dual-role skills" (GRADS) program for pregnant and parenting students that is approved by the department. The amount of the 17750
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payment shall be the district's state share percentage, as defined 17754
in section 3317.022 or 3317.16 of the Revised Code, times the 17755
GRADS personnel allowance times the full-time-equivalent number of 17756
GRADS teachers approved by the department. The GRADS personnel 17757
allowance is ~~\$46,260~~ \$47,555 in fiscal years ~~2002~~ 2004 and ~~2003~~ 17758
2005. 17759

The state board of education or any other board of education 17760
or governing board may provide for any resident of a district or 17761
educational service center territory any educational service for 17762
which funds are made available to the board by the United States 17763
under the authority of public law, whether such funds come 17764
directly or indirectly from the United States or any agency or 17765
department thereof or through the state or any agency, department, 17766
or political subdivision thereof. 17767

Sec. 3317.029. (A) As used in this section: 17768

(1) "DPIA percentage" means: 17769

(a) In fiscal years prior to fiscal year 2004, the quotient 17770
obtained by dividing the five-year average number of children ages 17771
five to seventeen residing in the school district and living in a 17772
family receiving assistance under the Ohio works first program or 17773
an antecedent program known as TANF or ADC, as certified or 17774
adjusted under section 3317.10 of the Revised Code, by the 17775
district's three-year average formula ADM. 17776

(b) Beginning in fiscal year 2004, the unduplicated number of 17777
children ages five to seventeen residing in the school district 17778
and living in a family that has family income not exceeding the 17779
federal poverty guidelines and that receives family assistance, as 17780
certified or adjusted under section 3317.10 of the Revised Code, 17781
divided by the district's three-year average formula ADM. 17782

(2) "Family assistance" means assistance received under one 17783

of the following:	17784
(a) The Ohio works first program;	17785
(b) The food stamp program;	17786
(c) The medical assistance program, including the healthy start program, established under Chapter 5111. of the Revised Code;	17787 17788 17789
(d) The children's health insurance program part I established under section 5101.50 of the Revised Code or, prior to fiscal year 2000, an executive order issued under section 107.17 of the Revised Code;	17790 17791 17792 17793
(e) The disability <u>financial</u> assistance program established under Chapter 5115. of the Revised Code;	17794 17795
(f) <u>The disability medical assistance program established under Chapter 5115. of the Revised Code.</u>	17796 17797
(3) "Statewide DPIA percentage" means:	17798
(a) In fiscal years prior to fiscal year 2004, the five-year average of the total number of children ages five to seventeen years residing in the state and receiving assistance under the Ohio works first program or an antecedent program known as TANF or ADC, divided by the sum of the three-year average formula ADMs for all school districts in the state.	17799 17800 17801 17802 17803 17804
(b) Beginning in fiscal year 2004, the total unduplicated number of children ages five to seventeen residing in the state and living in a family that has family income not exceeding the federal poverty guidelines and that receives family assistance, divided by the sum of the three-year average formula ADMs for all school districts in the state.	17805 17806 17807 17808 17809 17810
(4) "DPIA index" means the quotient obtained by dividing the school district's DPIA percentage by the statewide DPIA percentage.	17811 17812 17813

- (5) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code. 17814
17815
- (6) "DPIA student count" means: 17816
- (a) In fiscal years prior to fiscal year 2004, the five-year average number of children ages five to seventeen residing in the school district and living in a family receiving assistance under the Ohio works first program or an antecedent program known as TANF or ADC, as certified under section 3317.10 of the Revised Code; 17817
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- (b) Beginning in fiscal year 2004, the unduplicated number of children ages five to seventeen residing in the school district and living in a family that has family income not exceeding the federal poverty guidelines and that receives family assistance, as certified or adjusted under section 3317.10 of the Revised Code. 17823
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- (7) "Kindergarten ADM" means the number of students reported under section 3317.03 of the Revised Code as enrolled in kindergarten. 17828
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- (8) "Kindergarten through third grade ADM" means the amount calculated as follows: 17831
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- (a) Multiply the kindergarten ADM by the sum of one plus the all-day kindergarten percentage; 17833
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- (b) Add the number of students in grades one through three; 17835
- (c) Subtract from the sum calculated under division (A)(6)(b) of this section the number of special education students in grades kindergarten through three. 17836
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- (9) "Statewide average teacher salary" means forty-two thousand four hundred sixty-nine dollars in fiscal year 2002, and forty-three thousand six hundred fifty-eight dollars in fiscal year 2003, which includes an amount for the value of fringe benefits. 17839
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(10) "All-day kindergarten" means a kindergarten class that 17844
is in session ~~five days per week~~ for not less than the same number 17845
of clock hours each ~~day~~ week as for pupils in grades one through 17846
six. 17847

(11) "All-day kindergarten percentage" means the percentage 17848
of a district's actual total number of students enrolled in 17849
kindergarten who are enrolled in all-day kindergarten. 17850

(12) "Buildings with the highest concentration of need" 17851
means: 17852

(a) In fiscal years prior to fiscal year 2004, the school 17853
buildings in a district with percentages of students in grades 17854
kindergarten through three receiving assistance under Ohio works 17855
first at least as high as the district-wide percentage of students 17856
receiving such assistance. 17857

(b) Beginning in fiscal year 2004, the school buildings in a 17858
district with percentages of students in grades kindergarten 17859
through three receiving family assistance at least as high as the 17860
district-wide percentage of students receiving family assistance. 17861

(c) If, in any fiscal year, the information provided by the 17862
department of job and family services under section 3317.10 of the 17863
Revised Code is insufficient to determine the Ohio works first or 17864
family assistance percentage in each building, "buildings with the 17865
highest concentration of need" has the meaning given in rules that 17866
the department of education shall adopt. The rules shall base the 17867
definition of "buildings with the highest concentration of need" 17868
on family income of students in grades kindergarten through three 17869
in a manner that, to the extent possible with available data, 17870
approximates the intent of this division and division (G) of this 17871
section to designate buildings where the Ohio works first or 17872
family assistance percentage in those grades equals or exceeds the 17873
district-wide Ohio works first or family assistance percentage. 17874

(B) In addition to the amounts required to be paid to a school district under section 3317.022 of the Revised Code, a school district shall receive the greater of the amount the district received in fiscal year 1998 pursuant to division (B) of section 3317.023 of the Revised Code as it existed at that time or the sum of the computations made under divisions (C) to (E) of this section.

(C) A supplemental payment that may be utilized for measures related to safety and security and for remediation or similar programs, calculated as follows:

(1) If the DPIA index of the school district is greater than or equal to thirty-five-hundredths, but less than one, an amount obtained by multiplying the district's DPIA student count by two hundred thirty dollars;

(2) If the DPIA index of the school district is greater than or equal to one, an amount obtained by multiplying the DPIA index by two hundred thirty dollars and multiplying that product by the district's DPIA student count.

Except as otherwise provided in division (F) of this section, beginning with the school year that starts July 1, 2002, each school district annually shall use at least twenty per cent of the funds calculated for the district under this division for intervention services required by section 3313.608 of the Revised Code.

(D) A payment for all-day kindergarten if the DPIA index of the school district is greater than or equal to one or if the district's three-year average formula ADM exceeded seventeen thousand five hundred, calculated by multiplying the all-day kindergarten percentage by the kindergarten ADM and multiplying that product by the formula amount.

(E) A class-size reduction payment based on calculating the

number of new teachers necessary to achieve a lower 17906
student-teacher ratio, as follows: 17907

(1) Determine or calculate a formula number of teachers per 17908
one thousand students based on the DPIA index of the school 17909
district as follows: 17910

(a) If the DPIA index of the school district is less than 17911
six-tenths, the formula number of teachers is 43.478, which is the 17912
number of teachers per one thousand students at a student-teacher 17913
ratio of twenty-three to one; 17914

(b) If the DPIA index of the school district is greater than 17915
or equal to six-tenths, but less than two and one-half, the 17916
formula number of teachers is calculated as follows: 17917

$$43.478 + \{[(\text{DPIA index} - 0.6) / 1.9] \times 23.188\} \quad 17918$$

Where 43.478 is the number of teachers per one thousand 17919
students at a student-teacher ratio of twenty-three to one; 1.9 is 17920
the interval from a DPIA index of six-tenths to a DPIA index of 17921
two and one-half; and 23.188 is the difference in the number of 17922
teachers per one thousand students at a student-teacher ratio of 17923
fifteen to one and the number of teachers per one thousand 17924
students at a student-teacher ratio of twenty-three to one. 17925

(c) If the DPIA index of the school district is greater than 17926
or equal to two and one-half, the formula number of teachers is 17927
66.667, which is the number of teachers per one thousand students 17928
at a student-teacher ratio of fifteen to one. 17929

(2) Multiply the formula number of teachers determined or 17930
calculated in division (E)(1) of this section by the kindergarten 17931
through third grade ADM for the district and divide that product 17932
by one thousand; 17933

(3) Calculate the number of new teachers as follows: 17934

(a) Multiply the kindergarten through third grade ADM by 17935

43.478, which is the number of teachers per one thousand students 17936
at a student-teacher ratio of twenty-three to one, and divide that 17937
product by one thousand; 17938

(b) Subtract the quotient obtained in division (E)(3)(a) of 17939
this section from the product in division (E)(2) of this section. 17940

(4) Multiply the greater of the difference obtained under 17941
division (E)(3) of this section or zero by the statewide average 17942
teachers salary. 17943

(F) This division applies only to school districts whose DPIA 17944
index is one or greater. 17945

(1) Each school district subject to this division shall first 17946
utilize funds received under this section so that, when combined 17947
with other funds of the district, sufficient funds exist to 17948
provide all-day kindergarten to at least the number of children in 17949
the district's all-day kindergarten percentage. 17950

(2) Up to an amount equal to the district's DPIA index 17951
multiplied by its DPIA student count multiplied by two hundred 17952
thirty dollars of the money distributed under this section may be 17953
utilized for one or both of the following: 17954

(a) Programs designed to ensure that schools are free of 17955
drugs and violence and have a disciplined environment conducive to 17956
learning; 17957

(b) Remediation for students who have failed or are in danger 17958
of failing any of the tests administered pursuant to section 17959
3301.0710 of the Revised Code. 17960

Beginning with the school year that starts on July 1, 2002, 17961
each school district shall use at least twenty per cent of the 17962
funds set aside for the purposes of divisions (F)(2)(a) and (b) of 17963
this section to provide intervention services required by section 17964
3313.608 of the Revised Code. 17965

(3) Except as otherwise required by division (G) or permitted 17966
under division (K) of this section, all other funds distributed 17967
under this section to districts subject to this division shall be 17968
utilized for the purpose of the third grade guarantee. The third 17969
grade guarantee consists of increasing the amount of instructional 17970
attention received per pupil in kindergarten through third grade, 17971
either by reducing the ratio of students to instructional 17972
personnel or by increasing the amount of instruction and 17973
curriculum-related activities by extending the length of the 17974
school day or the school year. 17975

School districts may implement a reduction of the ratio of 17976
students to instructional personnel through any or all of the 17977
following methods: 17978

(a) Reducing the number of students in a classroom taught by 17979
a single teacher; 17980

(b) Employing full-time educational aides or educational 17981
paraprofessionals issued a permit or license under section 17982
3319.088 of the Revised Code; 17983

(c) Instituting a team-teaching method that will result in a 17984
lower student-teacher ratio in a classroom. 17985

Districts may extend the school day either by increasing the 17986
amount of time allocated for each class, increasing the number of 17987
classes provided per day, offering optional academic-related 17988
after-school programs, providing curriculum-related extra 17989
curricular activities, or establishing tutoring or remedial 17990
services for students who have demonstrated an educational need. 17991
In accordance with section 3319.089 of the Revised Code, a 17992
district extending the school day pursuant to this division may 17993
utilize a participant of the work experience program who has a 17994
child enrolled in a public school in that district and who is 17995
fulfilling the work requirements of that program by volunteering 17996

or working in that public school. If the work experience program 17997
participant is compensated, the school district may use the funds 17998
distributed under this section for all or part of the 17999
compensation. 18000

Districts may extend the school year either through adding 18001
regular days of instruction to the school calendar or by providing 18002
summer programs. 18003

(G) Each district subject to division (F) of this section 18004
shall not expend any funds received under division (E) of this 18005
section in any school buildings that are not buildings with the 18006
highest concentration of need, unless there is a ratio of 18007
instructional personnel to students of no more than fifteen to one 18008
in each kindergarten and first grade class in all buildings with 18009
the highest concentration of need. This division does not require 18010
that the funds used in buildings with the highest concentration of 18011
need be spent solely to reduce the ratio of instructional 18012
personnel to students in kindergarten and first grade. A school 18013
district may spend the funds in those buildings in any manner 18014
permitted by division (F)(3) of this section, but may not spend 18015
the money in other buildings unless the fifteen-to-one ratio 18016
required by this division is attained. 18017

(H)(1) By the first day of August of each fiscal year, each 18018
school district wishing to receive any funds under division (D) of 18019
this section shall submit to the department of education an 18020
estimate of its all-day kindergarten percentage. Each district 18021
shall update its estimate throughout the fiscal year in the form 18022
and manner required by the department, and the department shall 18023
adjust payments under this section to reflect the updates. 18024

(2) Annually by the end of December, the department of 18025
education, utilizing data from the information system established 18026
under section 3301.0714 of the Revised Code and after consultation 18027
with the legislative office of education oversight, shall 18028

determine for each school district subject to division (F) of this 18029
section whether in the preceding fiscal year the district's ratio 18030
of instructional personnel to students and its number of 18031
kindergarten students receiving all-day kindergarten appear 18032
reasonable, given the amounts of money the district received for 18033
that fiscal year pursuant to divisions (D) and (E) of this 18034
section. If the department is unable to verify from the data 18035
available that students are receiving reasonable amounts of 18036
instructional attention and all-day kindergarten, given the funds 18037
the district has received under this section and that class-size 18038
reduction funds are being used in school buildings with the 18039
highest concentration of need as required by division (G) of this 18040
section, the department shall conduct a more intensive 18041
investigation to ensure that funds have been expended as required 18042
by this section. The department shall file an annual report of its 18043
findings under this division with the chairpersons of the 18044
committees in each house of the general assembly dealing with 18045
finance and education. 18046

(I) Any school district with a DPIA index less than one and a 18047
three-year average formula ADM exceeding seventeen thousand five 18048
hundred shall first utilize funds received under this section so 18049
that, when combined with other funds of the district, sufficient 18050
funds exist to provide all-day kindergarten to at least the number 18051
of children in the district's all-day kindergarten percentage. 18052
Such a district shall expend at least seventy per cent of the 18053
remaining funds received under this section, and any other 18054
district with a DPIA index less than one shall expend at least 18055
seventy per cent of all funds received under this section, for any 18056
of the following purposes: 18057

- (1) The purchase of technology for instructional purposes; 18058
- (2) All-day kindergarten; 18059
- (3) Reduction of class sizes; 18060

(4) Summer school remediation;	18061
(5) Dropout prevention programs;	18062
(6) Guaranteeing that all third graders are ready to progress to more advanced work;	18063 18064
(7) Summer education and work programs;	18065
(8) Adolescent pregnancy programs;	18066
(9) Head start or preschool programs;	18067
(10) Reading improvement programs described by the department of education;	18068 18069
(11) Programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning;	18070 18071 18072
(12) Furnishing, free of charge, materials used in courses of instruction, except for the necessary textbooks or electronic textbooks required to be furnished without charge pursuant to section 3329.06 of the Revised Code, to pupils living in families participating in Ohio works first in accordance with section 3313.642 of the Revised Code;	18073 18074 18075 18076 18077 18078
(13) School breakfasts provided pursuant to section 3313.813 of the Revised Code.	18079 18080
Each district shall submit to the department, in such format and at such time as the department shall specify, a report on the programs for which it expended funds under this division.	18081 18082 18083
(J) If at any time the superintendent of public instruction determines that a school district receiving funds under division (D) of this section has enrolled less than the all-day kindergarten percentage reported for that fiscal year, the superintendent shall withhold from the funds otherwise due the district under this section a proportional amount as determined by	18084 18085 18086 18087 18088 18089

the difference in the certified all-day kindergarten percentage 18090
and the percentage actually enrolled in all-day kindergarten. 18091

The superintendent shall also withhold an appropriate amount 18092
of funds otherwise due a district for any other misuse of funds 18093
not in accordance with this section. 18094

(K)(1) A district may use a portion of the funds calculated 18095
for it under division (D) of this section to modify or purchase 18096
classroom space to provide all-day kindergarten, if both of the 18097
following conditions are met: 18098

(a) The district certifies to the department, in a manner 18099
acceptable to the department, that it has a shortage of space for 18100
providing all-day kindergarten. 18101

(b) The district provides all-day kindergarten to the number 18102
of children in the all-day kindergarten percentage it certified 18103
under this section. 18104

(2) A district may use a portion of the funds described in 18105
division (F)(3) of this section to modify or purchase classroom 18106
space to enable it to further reduce class size in grades 18107
kindergarten through two with a goal of attaining class sizes of 18108
fifteen students per licensed teacher. To do so, the district must 18109
certify its need for additional space to the department, in a 18110
manner satisfactory to the department. 18111

Sec. 3317.0217. The department of education shall ~~annually~~ 18112
monthly compute and pay state parity aid to school districts, as 18113
follows: 18114

(A) Calculate the local wealth per pupil of each school 18115
district, which equals the following sum: 18116

(1) Two-thirds times the quotient of (a) the district's 18117
recognized valuation divided by (b) its ~~formula-ADM~~ average daily 18118
attendance; plus 18119

(2) One-third times the quotient of (a) the average of the total federal adjusted gross income of the school district's residents for the three years most recently reported under section 3317.021 of the Revised Code divided by (b) its ~~formula~~ ADM average daily attendance.

(B) Rank all school districts in order of local wealth per pupil, from the district with the lowest local wealth per pupil to the district with the highest local wealth per pupil.

(C) Compute the per pupil state parity aid funding for each school district in accordance with the following formula:

Payment percentage X (threshold local wealth per pupil - the district's local wealth per pupil) X 0.0095

Where:

(1) "Payment percentage," for purposes of division (C) of this section, equals 20% in fiscal year 2002, 40% in fiscal year 2003, 60% in fiscal year 2004, 80% in fiscal year 2005, and 100% after fiscal year 2005.

(2) Nine and one-half mills (0.0095) is the general assembly's determination of the average number of effective operating mills that districts in the seventieth to ninetieth percentiles of valuations per pupil collected in fiscal year 2001 above the revenues required to finance their attributed local shares of the calculated cost of an adequate education. This was determined by (a) adding the district revenues from operating property tax levies and income tax levies, (b) subtracting from that total the sum of (i) twenty-three mills times adjusted recognized valuation plus (ii) the attributed local shares of special education, transportation, and vocational education funding as described in divisions (F)(1) to (3) of section 3317.022 of the Revised Code, and (c) converting the result to an

effective operating property tax rate. 18151

(3) The "threshold local wealth per pupil" is the local 18152
wealth per pupil of the school district with the 18153
four-hundred-ninetieth lowest local wealth per pupil. 18154

If the result of the calculation for a school district under 18155
division (C) of this section is less than zero, the district's per 18156
pupil parity aid shall be zero. 18157

(D) Compute the per pupil alternative parity aid for each 18158
school district that has a combination of an income factor of 1.0 18159
or less, a DPIA index of 1.0 or greater, and a 18160
cost-of-doing-business factor of 1.0375 or greater, in accordance 18161
with the following formula: 18162

Payment percentage X \$60,000 X 18163
(1 - income factor) X 4/15 X 0.023 18164

Where: 18165

(1) "DPIA index" has the same meaning as in section 3317.029 18166
of the Revised Code. 18167

(2) "Payment percentage," for purposes of division (D) of 18168
this section, equals 50% in fiscal year 2002 and 100% after fiscal 18169
year 2002. 18170

(E) Pay each district that has a combination of an income 18171
factor 1.0 or less, a DPIA index of 1.0 or greater, and a 18172
cost-of-doing-business factor of 1.0375 or greater, the greater of 18173
the following: 18174

(1) The product of the district's per pupil parity aid 18175
calculated under division (C) of this section times its ~~formula~~ 18176
~~ADM~~ average daily attendance; 18177

(2) The product of its per pupil alternative parity aid 18178
calculated under division (D) of this section times its ~~formula~~ 18179
~~ADM~~ average daily attendance. 18180

(F) Pay every other district the product of its per pupil parity aid calculated under division (C) of this section times its ~~formula~~ ADM average daily attendance.

~~Every six years, the general assembly shall redetermine, after considering the report of the committee appointed under section 3317.012 of the Revised Code, the average number of effective operating mills that districts in the seventieth to ninetieth percentiles of valuations per pupil collect above the revenues required to finance their attributed local shares of the cost of an adequate education.~~

Sec. 3317.03. Notwithstanding divisions (A)(1), (B)(1), and (C) of this section, any student enrolled in kindergarten more than half time shall be reported as one-half student under this section.

(A) The superintendent of each city and exempted village school district and of each educational service center shall, for the schools under the superintendent's supervision, certify to the state board of education on or before the fifteenth day of October in each year for the first full school week in October the formula ADM, which shall consist of the average daily membership during such week of the sum of the following:

(1) On an FTE basis, the number of students in grades kindergarten through twelve receiving any educational services from the district, except that the following categories of students shall not be included in the determination:

(a) Students enrolled in adult education classes;

(b) Adjacent or other district students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;

~~(c) Students receiving services in the district pursuant to a~~

~~compact, cooperative education agreement, or a contract, but who~~ 18211
~~are entitled to attend school in another district pursuant to~~ 18212
~~section 3313.64 or 3313.65 of the Revised Code;~~ 18213

~~(d)~~ Students for whom tuition is payable pursuant to sections 18214
3317.081 and 3323.141 of the Revised Code. 18215

(2) On an FTE basis, the number of students entitled to 18216
attend school in the district pursuant to section 3313.64 or 18217
3313.65 of the Revised Code, but receiving educational services in 18218
grades kindergarten through twelve from one or more of the 18219
following entities: 18220

(a) A community school pursuant to Chapter 3314. of the 18221
Revised Code, including any participation in a college pursuant to 18222
Chapter 3365. of the Revised Code while enrolled in such community 18223
school; 18224

(b) An alternative school pursuant to sections 3313.974 to 18225
3313.979 of the Revised Code as described in division (I)(2)(a) or 18226
(b) of this section; 18227

(c) A college pursuant to Chapter 3365. of the Revised Code, 18228
except when the student is enrolled in the college while also 18229
enrolled in a community school pursuant to Chapter 3314. of the 18230
Revised Code; 18231

(d) An adjacent or other school district under an open 18232
enrollment policy adopted pursuant to section 3313.98 of the 18233
Revised Code; 18234

(e) An educational service center or cooperative education 18235
district; 18236

~~(f) Another school district under a cooperative education~~ 18237
~~agreement, compact, or contract.~~ 18238

(3) One-fourth of the number of students enrolled in a joint 18239
vocational school district or under a vocational education 18240

compact, excluding any students entitled to attend school in the 18241
district under section 3313.64 or 3313.65 of the Revised Code who 18242
are enrolled in another school district through an open enrollment 18243
policy as reported under division (A)(2)(d) of this section and 18244
then enroll in a joint vocational school district or under a 18245
vocational education compact; 18246

(4) The number of handicapped children, other than 18247
handicapped preschool children, entitled to attend school in the 18248
district pursuant to section 3313.64 or 3313.65 of the Revised 18249
Code who are placed with a county MR/DD board, minus the number of 18250
such children placed with a county MR/DD board in fiscal year 18251
1998. If this calculation produces a negative number, the number 18252
reported under division (A)(4) of this section shall be zero. 18253

(B) To enable the department of education to obtain the data 18254
needed to complete the calculation of payments pursuant to this 18255
chapter, in addition to the formula ADM, each superintendent shall 18256
report separately the following student counts: 18257

(1) The total average daily membership in regular day classes 18258
included in the report under division (A)(1) or (2) of this 18259
section for kindergarten, and each of grades one through twelve in 18260
schools under the superintendent's supervision; 18261

(2) The number of all handicapped preschool children enrolled 18262
as of the first day of December in classes in the district that 18263
are eligible for approval ~~by the state board of education~~ under 18264
division (B) of section 3317.05 of the Revised Code and the number 18265
of those classes, which shall be reported not later than the 18266
fifteenth day of December, in accordance with rules adopted under 18267
that section; 18268

(3) The number of children entitled to attend school in the 18269
district pursuant to section 3313.64 or 3313.65 of the Revised 18270
Code who are participating in a pilot project scholarship program 18271

established under sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section, are enrolled in a college under Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. of the Revised Code, are enrolled in an adjacent or other school district under section 3313.98 of the Revised Code, are enrolled in a community school established under Chapter 3314. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school, or are participating in a program operated by a county MR/DD board or a state institution;

(4) The number of pupils enrolled in joint vocational schools;

(5) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;

(6) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category two handicaps described in division (B) of section 3317.013 of the Revised Code;

(7) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;

(8) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;

(9) The average daily membership of handicapped children

reported under division (A)(1) or (2) of this section receiving 18303
special education services for the category five handicap 18304
described in division (E) of section 3317.013 of the Revised Code; 18305

(10) The average daily membership of handicapped children 18306
reported under division (A)(1) or (2) of this section receiving 18307
special education services for category six handicaps described in 18308
division (F) of section 3317.013 of the Revised Code; 18309

(11) The average daily membership of pupils reported under 18310
division (A)(1) or (2) of this section enrolled in category one 18311
vocational education programs or classes, described in division 18312
(A) of section 3317.014 of the Revised Code, operated by the 18313
school district or by another district, other than a joint 18314
vocational school district, or by an educational service center; 18315

(12) The average daily membership of pupils reported under 18316
division (A)(1) or (2) of this section enrolled in category two 18317
vocational education programs or services, described in division 18318
(B) of section 3317.014 of the Revised Code, operated by the 18319
school district or another school district, other than a joint 18320
vocational school district, or by an educational service center; 18321

(13) The average number of children transported by the school 18322
district on board-owned or contractor-owned and -operated buses, 18323
reported in accordance with rules adopted by the department of 18324
education; 18325

(14)(a) The number of children, other than handicapped 18326
preschool children, the district placed with a county MR/DD board 18327
in fiscal year 1998; 18328

(b) The number of handicapped children, other than 18329
handicapped preschool children, placed with a county MR/DD board 18330
in the current fiscal year to receive special education services 18331
for the category one handicap described in division (A) of section 18332
3317.013 of the Revised Code; 18333

(c) The number of handicapped children, other than 18334
handicapped preschool children, placed with a county MR/DD board 18335
in the current fiscal year to receive special education services 18336
for category two handicaps described in division (B) of section 18337
3317.013 of the Revised Code; 18338

(d) The number of handicapped children, other than 18339
handicapped preschool children, placed with a county MR/DD board 18340
in the current fiscal year to receive special education services 18341
for category three handicaps described in division (C) of section 18342
3317.013 of the Revised Code; 18343

(e) The number of handicapped children, other than 18344
handicapped preschool children, placed with a county MR/DD board 18345
in the current fiscal year to receive special education services 18346
for category four handicaps described in division (D) of section 18347
3317.013 of the Revised Code; 18348

(f) The number of handicapped children, other than 18349
handicapped preschool children, placed with a county MR/DD board 18350
in the current fiscal year to receive special education services 18351
for the category five handicap described in division (E) of 18352
section 3317.013 of the Revised Code; 18353

(g) The number of handicapped children, other than 18354
handicapped preschool children, placed with a county MR/DD board 18355
in the current fiscal year to receive special education services 18356
for category six handicaps described in division (F) of section 18357
3317.013 of the Revised Code. 18358

(C)(1) Except as otherwise provided in this section for 18359
kindergarten students, the average daily membership in divisions 18360
(B)(1) to (12) of this section shall be based upon the number of 18361
full-time equivalent students. The state board of education shall 18362
adopt rules defining full-time equivalent students and for 18363
determining the average daily membership therefrom for the 18364

purposes of divisions (A), (B), and (D) of this section. 18365

(2) A student enrolled in a community school established 18366
under Chapter 3314. of the Revised Code shall be counted in the 18367
formula ADM and, if applicable, the category one, two, three, 18368
four, five, or six special education ADM of the school district in 18369
which the student is entitled to attend school under section 18370
3313.64 or 3313.65 of the Revised Code for the same proportion of 18371
the school year that the student is counted in the enrollment of 18372
the community school for purposes of section 3314.08 of the 18373
Revised Code. 18374

(3) No child shall be counted as more than a total of one 18375
child in the sum of the average daily memberships of a school 18376
district under division (A), divisions (B)(1) to (12), or division 18377
(D) of this section, except as follows: 18378

(a) A child with a handicap described in section 3317.013 of 18379
the Revised Code may be counted both in formula ADM and in 18380
category one, two, three, four, five, or six special education ADM 18381
and, if applicable, in category one or two vocational education 18382
ADM. As provided in division (C) of section 3317.02 of the Revised 18383
Code, such a child shall be counted in category one, two, three, 18384
four, five, or six special education ADM in the same proportion 18385
that the child is counted in formula ADM. 18386

(b) A child enrolled in vocational education programs or 18387
classes described in section 3317.014 of the Revised Code may be 18388
counted both in formula ADM and category one or two vocational 18389
education ADM and, if applicable, in category one, two, three, 18390
four, five, or six special education ADM. Such a child shall be 18391
counted in category one or two vocational education ADM in the 18392
same proportion as the percentage of time that the child spends in 18393
the vocational education programs or classes. 18394

(4) Based on the information reported under this section, the 18395

department of education shall determine the total student count, 18396
as defined in section 3301.011 of the Revised Code, for each 18397
school district. 18398

(D)(1) The superintendent of each joint vocational school 18399
district shall certify to the superintendent of public instruction 18400
on or before the fifteenth day of October in each year for the 18401
first full school week in October the formula ADM, which, except 18402
as otherwise provided in this division, shall consist of the 18403
average daily membership during such week, on an FTE basis, of the 18404
number of students receiving any educational services from the 18405
district, including students enrolled in a community school 18406
established under Chapter 3314. of the Revised Code who are 18407
attending the joint vocational district under an agreement between 18408
the district board of education and the governing authority of the 18409
community school and are entitled to attend school in a city, 18410
local, or exempted village school district whose territory is part 18411
of the territory of the joint vocational district. 18412

The following categories of students shall not be included in 18413
the determination made under division (D)(1) of this section: 18414

(a) Students enrolled in adult education classes; 18415

(b) Adjacent or other district joint vocational students 18416
enrolled in the district under an open enrollment policy pursuant 18417
to section 3313.98 of the Revised Code; 18418

(c) Students receiving services in the district pursuant to a 18419
compact, cooperative education agreement, or a contract, but who 18420
are entitled to attend school in a city, local, or exempted 18421
village school district whose territory is not part of the 18422
territory of the joint vocational district; 18423

(d) Students for whom tuition is payable pursuant to sections 18424
3317.081 and 3323.141 of the Revised Code. 18425

(2) To enable the department of education to obtain the data 18426

needed to complete the calculation of payments pursuant to this 18427
chapter, in addition to the formula ADM, each superintendent shall 18428
report separately the average daily membership included in the 18429
report under division (D)(1) of this section for each of the 18430
following categories of students: 18431

(a) Students enrolled in each grade included in the joint 18432
vocational district schools; 18433

(b) Handicapped children receiving special education services 18434
for the category one handicap described in division (A) of section 18435
3317.013 of the Revised Code; 18436

(c) Handicapped children receiving special education services 18437
for the category two handicaps described in division (B) of 18438
section 3317.013 of the Revised Code; 18439

(d) Handicapped children receiving special education services 18440
for category three handicaps described in division (C) of section 18441
3317.013 of the Revised Code; 18442

(e) Handicapped children receiving special education services 18443
for category four handicaps described in division (D) of section 18444
3317.013 of the Revised Code; 18445

(f) Handicapped children receiving special education services 18446
for the category five handicap described in division (E) of 18447
section 3317.013 of the Revised Code; 18448

(g) Handicapped children receiving special education services 18449
for category six handicaps described in division (F) of section 18450
3317.013 of the Revised Code; 18451

(h) Students receiving category one vocational education 18452
services, described in division (A) of section 3317.014 of the 18453
Revised Code; 18454

(i) Students receiving category two vocational education 18455
services, described in division (B) of section 3317.014 of the 18456

Revised Code. 18457

The superintendent of each joint vocational school district 18458
shall also indicate the city, local, or exempted village school 18459
district in which each joint vocational district pupil is entitled 18460
to attend school pursuant to section 3313.64 or 3313.65 of the 18461
Revised Code. 18462

(E) In each school of each city, local, exempted village, 18463
joint vocational, and cooperative education school district there 18464
shall be maintained a record of school membership, which record 18465
shall accurately show, for each day the school is in session, the 18466
actual membership enrolled in regular day classes. For the purpose 18467
of determining average daily membership, the membership figure of 18468
any school shall not include any pupils except those pupils 18469
described by division (A) of this section. The record of 18470
membership for each school shall be maintained in such manner that 18471
no pupil shall be counted as in membership prior to the actual 18472
date of entry in the school and also in such manner that where for 18473
any cause a pupil permanently withdraws from the school that pupil 18474
shall not be counted as in membership from and after the date of 18475
such withdrawal. There shall not be included in the membership of 18476
any school any of the following: 18477

(1) Any pupil who has graduated from the twelfth grade of a 18478
public high school; 18479

(2) Any pupil who is not a resident of the state; 18480

(3) Any pupil who was enrolled in the schools of the district 18481
during the previous school year when tests were administered under 18482
section 3301.0711 of the Revised Code but did not take one or more 18483
of the tests required by that section and was not excused pursuant 18484
to division (C)(1) of that section; 18485

(4) Any pupil who has attained the age of twenty-two years, 18486
except for veterans of the armed services whose attendance was 18487

interrupted before completing the recognized twelve-year course of 18488
the public schools by reason of induction or enlistment in the 18489
armed forces and who apply for reenrollment in the public school 18490
system of their residence not later than four years after 18491
termination of war or their honorable discharge. 18492

If, however, any veteran described by division (E)(4) of this 18493
section elects to enroll in special courses organized for veterans 18494
for whom tuition is paid under the provisions of federal laws, or 18495
otherwise, that veteran shall not be included in average daily 18496
membership. 18497

Notwithstanding division (E)(3) of this section, the 18498
membership of any school may include a pupil who did not take a 18499
test required by section 3301.0711 of the Revised Code if the 18500
superintendent of public instruction grants a waiver from the 18501
requirement to take the test to the specific pupil. The 18502
superintendent may grant such a waiver only for good cause in 18503
accordance with rules adopted by the state board of education. 18504

Except as provided in divisions (B)(2) and (F) of this 18505
section, the average daily membership figure of any local, city, 18506
exempted village, or joint vocational school district shall be 18507
determined by dividing the figure representing the sum of the 18508
number of pupils enrolled during each day the school of attendance 18509
is actually open for instruction during the first full school week 18510
in October by the total number of days the school was actually 18511
open for instruction during that week. For purposes of state 18512
funding, "enrolled" persons are only those pupils who are 18513
attending school, those who have attended school during the 18514
current school year and are absent for authorized reasons, and 18515
those handicapped children currently receiving home instruction. 18516

The average daily membership figure of any cooperative 18517
education school district shall be determined in accordance with 18518
rules adopted by the state board of education. 18519

(F)(1) If the formula ADM for the first full school week in February is at least three per cent greater than that certified for the first full school week in the preceding October, the superintendent of schools of any city, exempted village, or joint vocational school district or educational service center shall certify such increase to the superintendent of public instruction. Such certification shall be submitted no later than the fifteenth day of February. For the balance of the fiscal year, beginning with the February payments, the superintendent of public instruction shall use the increased formula ADM in calculating or recalculating ~~the amounts to be allocated in accordance with payments under~~ section 3317.022 or 3317.16 of the Revised Code that are based on formula ADM and not on average daily attendance. In no event shall the superintendent use an increased membership certified to the superintendent after the fifteenth day of February.

(2) If on the first school day of April the total number of classes or units for handicapped preschool children that are eligible for approval under division (B) of section 3317.05 of the Revised Code exceeds the number of units that have been approved for the year under that division, the superintendent of schools of any city, exempted village, or cooperative education school district or educational service center shall make the certifications required by this section for that day. If the ~~state board of education~~ department determines additional units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of such units, the ~~board~~ department shall approve additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department ~~of education~~ shall pay an amount computed in the manner prescribed in section 3317.052 or 3317.19 and section 3317.053 of the Revised Code.

(3) If a student attending a community school under Chapter 3314. of the Revised Code is not included in the formula ADM certified for the first full school week of October for the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code, the department of education shall adjust the formula ADM of that school district to include the community school student in accordance with division (C)(2) of this section, and shall recalculate the school district's payments under this chapter for the entire fiscal year on the basis of that adjusted formula ADM. This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in the community school during the first full school week in October.

(G)(1)(a) The superintendent of an institution operating a special education program pursuant to section 3323.091 of the Revised Code shall, for the programs under such superintendent's supervision, certify to the state board of education the average daily membership of all handicapped children in classes or programs approved annually by the ~~state board~~ department of education, in the manner prescribed by the superintendent of public instruction.

(b) The superintendent of an institution with vocational education units approved under division (A) of section 3317.05 of the Revised Code shall, for the units under the superintendent's supervision, certify to the state board of education the average daily membership in those units, in the manner prescribed by the superintendent of public instruction.

(2) The superintendent of each county MR/DD board that maintains special education classes under section 3317.20 of the Revised Code or units approved ~~by the state board of education~~ pursuant to section 3317.05 of the Revised Code shall do both of the following:

(a) Certify to the state board, in the manner prescribed by 18584
the board, the average daily membership in classes under section 18585
3317.20 of the Revised Code for each school district that has 18586
placed children in the classes; 18587

(b) Certify to the state board, in the manner prescribed by 18588
the board, the number of all handicapped preschool children 18589
enrolled as of the first day of December in classes eligible for 18590
approval under division (B) of section 3317.05 of the Revised 18591
Code, and the number of those classes. 18592

(3)(a) If on the first school day of April the number of 18593
classes or units maintained for handicapped preschool children by 18594
the county MR/DD board that are eligible for approval under 18595
division (B) of section 3317.05 of the Revised Code is greater 18596
than the number of units approved for the year under that 18597
division, the superintendent shall make the certification required 18598
by this section for that day. 18599

(b) If the ~~state board~~ department determines that additional 18600
classes or units can be approved for the fiscal year within any 18601
limitations set forth in the acts appropriating moneys for the 18602
funding of the classes and units described in division (G)(3)(a) 18603
of this section, the ~~board~~ department shall approve and fund 18604
additional units for the fiscal year on the basis of such average 18605
daily membership. For each unit so approved, the department ~~of~~ 18606
~~education~~ shall pay an amount computed in the manner prescribed in 18607
sections 3317.052 and 3317.053 of the Revised Code. 18608

(H) Except as provided in division (I) of this section, when 18609
any city, local, or exempted village school district provides 18610
instruction for a nonresident pupil whose attendance is 18611
unauthorized attendance as defined in section 3327.06 of the 18612
Revised Code, that pupil's membership shall not be included in 18613
that district's membership figure used in the calculation of that 18614

district's formula ADM or included in the determination of any 18615
unit approved for the district under section 3317.05 of the 18616
Revised Code. The reporting official shall report separately the 18617
average daily membership of all pupils whose attendance in the 18618
district is unauthorized attendance, and the membership of each 18619
such pupil shall be credited to the school district in which the 18620
pupil is entitled to attend school under division (B) of section 18621
3313.64 or section 3313.65 of the Revised Code as determined by 18622
the department of education. 18623

(I)(1) A city, local, exempted village, or joint vocational 18624
school district admitting a scholarship student of a pilot project 18625
district pursuant to division (C) of section 3313.976 of the 18626
Revised Code may count such student in its average daily 18627
membership. 18628

(2) In any year for which funds are appropriated for pilot 18629
project scholarship programs, a school district implementing a 18630
state-sponsored pilot project scholarship program that year 18631
pursuant to sections 3313.974 to 3313.979 of the Revised Code may 18632
count in average daily membership: 18633

(a) All children residing in the district and utilizing a 18634
scholarship to attend kindergarten in any alternative school, as 18635
defined in section 3313.974 of the Revised Code; 18636

(b) All children who were enrolled in the district in the 18637
preceding year who are utilizing a scholarship to attend any such 18638
alternative school. 18639

(J) The superintendent of each cooperative education school 18640
district shall certify to the superintendent of public 18641
instruction, in a manner prescribed by the state board of 18642
education, the applicable average daily memberships for all 18643
students in the cooperative education district, also indicating 18644
the city, local, or exempted village district where each pupil is 18645

entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

Sec. 3317.032. (A) Each city, local, exempted village, and cooperative education school district, each educational service center, each county MR/DD board, and each institution operating a special education program pursuant to section 3323.091 of the Revised Code shall, in accordance with procedures adopted by the state board of education, maintain a record of district membership of both of the following:

(1) All handicapped preschool children in units approved under division (B) of section 3317.05 of the Revised Code;

(2) All handicapped preschool children who are not in units approved ~~by the state board~~ under division (B) of section 3317.05 of the Revised Code but who are otherwise served by a special education program.

(B) The superintendent of each district, board, or institution subject to division (A) of this section shall certify to the state board of education, in accordance with procedures adopted by that board, membership figures of all handicapped preschool children whose membership is maintained under division (A)(2) of this section. The figures certified under this division shall be used in the determination of the ADM used to compute funds for educational service center governing boards under division (B) of section 3317.11 of the Revised Code.

Sec. 3317.034. Any student enrolled in kindergarten more than half time shall be reported as one-half student under this section.

(A) Beginning in fiscal year 2005, the superintendent of each city, exempted village, local, and joint vocational school district shall, for the schools under the superintendent's

supervision, certify to the state board of education on or before 18676
the fifteenth day of each month from October through June, the 18677
average daily attendance for the previous month, which shall 18678
consist of the average daily attendance during that month of the 18679
sum of the following: 18680

(1) On an FTE basis, the number of students in attendance in 18681
each of grades kindergarten through twelve, except that the 18682
following categories of students shall not be included in the 18683
determination: 18684

(a) Adjacent or other district students enrolled in the 18685
district under an open enrollment policy pursuant to section 18686
3313.98 of the Revised Code; 18687

(b) Students for whom tuition is payable pursuant to sections 18688
3317.081 and 3323.141 of the Revised Code. 18689

(2) On an FTE basis, the number of students entitled to 18690
attend school in the district pursuant to section 3313.64 or 18691
3313.65 of the Revised Code, but receiving educational services in 18692
grades kindergarten through twelve from one or more of the 18693
following entities: 18694

(a) A community school pursuant to Chapter 3314. of the 18695
Revised Code; 18696

(b) An alternative school pursuant to sections 3313.974 to 18697
3313.979 of the Revised Code as described in division (H)(2)(a) or 18698
(b) of this section; 18699

(c) A college pursuant to Chapter 3365. of the Revised Code; 18700

(d) An adjacent or other school district under an open 18701
enrollment policy adopted pursuant to section 3313.98 of the 18702
Revised Code; 18703

(e) An educational service center or cooperative education 18704
district. 18705

(3) The number of handicapped children, other than handicapped preschool children, entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are placed with a county MR/DD board, minus the number of such children placed with a county MR/DD board in fiscal year 1998. If this calculation produces a negative number, the number reported under division (A)(3) of this section shall be zero.

(B) A student enrolled in a community school established under Chapter 3314. of the Revised Code shall be counted in the average daily attendance of the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code for the same proportion of each month that the student is counted in the enrollment of the community school for purposes of section 3314.08 of the Revised Code.

(C) No child shall be counted as more than a total of one child in the average daily attendance of a school district.

(1) A child with a handicap described in section 3317.013 of the Revised Code may be counted both in average daily attendance and in category one, two, three, four, five, or six special education ADM and, if applicable, in category one or two vocational education ADM. As provided in division (C) of section 3317.02 of the Revised Code, such a child shall be counted in category one, two, three, four, five, or six special education ADM in the same proportion that the child is counted in average daily attendance.

(2) A child enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code may be counted both in average daily attendance and category one or two vocational education ADM and, if applicable, in category one, two, three, four, five, or six special education ADM.

(D) The average daily attendance figure of any city, local,

exempted village, or joint vocational school district shall not 18737
include any pupils except those pupils described by division (A) 18738
of this section. There shall not be included in the attendance of 18739
any school district any of the following: 18740

(1) Any pupil who has graduated from high school; 18741

(2) Any pupil who is not a resident of the state; 18742

(3) Any pupil who was enrolled in the schools of the district 18743
during the previous school year when tests were administered under 18744
section 3301.0711 of the Revised Code but did not take one or more 18745
of the tests required by that section and was not excused pursuant 18746
to division (C)(1) of that section, unless the superintendent of 18747
public instruction grants a waiver from the requirement to take 18748
the test to the specific pupil. The superintendent may grant such 18749
a waiver only for good cause in accordance with rules adopted by 18750
the state board of education. 18751

(4) Any pupil who has attained the age of twenty-two years, 18752
except for veterans of the armed services whose attendance was 18753
interrupted before completing the recognized twelve-year course of 18754
the public schools by reason of induction or enlistment in the 18755
armed forces and who apply for re-enrollment in the public school 18756
system of their residence not later than four years after 18757
termination of war or their honorable discharge. If, however, any 18758
veteran described by division (D)(4) of this section elects to 18759
enroll in special courses organized for veterans for whom tuition 18760
is paid under the provisions of federal laws, or otherwise, that 18761
veteran shall not be included in average daily attendance. 18762

(E) The average daily attendance of each city, exempted 18763
village, local, and joint vocational school district shall be 18764
determined by dividing the sum of the number of pupils on an FTE 18765
basis attending any part of a day the school of attendance is 18766
actually open for instruction during the prior month by the total 18767

number of days the school was actually open for instruction for 18768
any part of a day during that month. For this purpose, "attending" 18769
persons are only those pupils who are attending school, attending 18770
a school-sponsored field trip, serving an in-school suspension, or 18771
receiving educational services from the school district while 18772
expelled or serving an out-of-school suspension, and those 18773
handicapped children receiving home instruction. "Attending" 18774
persons do not include students absent with or without excuse. 18775
However, if a district allows a student to make up, during hours 18776
the student ordinarily does not attend school, instructional time 18777
missed due to an excused absence, the student's attendance during 18778
the make-up time may be counted, on an FTE basis, as attendance 18779
under this section. 18780

(F) Beginning in fiscal year 2005, the superintendent of each 18781
county MR/DD board that maintains special education classes under 18782
section 3317.20 of the Revised Code shall certify to the state 18783
board, in the manner prescribed by the state board, the average 18784
daily attendance in classes under section 3317.20 of the Revised 18785
Code for each school district that has placed children in the 18786
classes. 18787

(G) Except as provided in division (I) of this section, when 18788
any city, local, or exempted village school district provides 18789
instruction for a nonresident pupil whose attendance is 18790
unauthorized attendance as defined in section 3327.06 of the 18791
Revised Code, that pupil's attendance shall not be included in 18792
that district's average daily attendance. The reporting official 18793
shall report separately the average daily attendance of all pupils 18794
whose attendance in the district is unauthorized attendance, and 18795
the attendance of each such pupil shall be credited to the school 18796
district in which the pupil is entitled to attend school under 18797
division (B) of section 3313.64 or section 3313.65 of the Revised 18798
Code as determined by the department of education. 18799

(H)(1) A city, local, exempted village, or joint vocational school district admitting a scholarship student of a pilot project district pursuant to division (C) of section 3313.976 of the Revised Code may count such student in its average daily attendance. 18800
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(2) In any year for which funds are appropriated for pilot project scholarship programs, a school district implementing a state-sponsored pilot project scholarship program that year pursuant to sections 3313.974 to 3313.979 of the Revised Code may count in average daily attendance: 18805
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(a) All children residing in the district and utilizing a scholarship to attend kindergarten in any alternative school, as defined in section 3313.974 of the Revised Code; 18810
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(b) All children who were enrolled in the district in the preceding year who are utilizing a scholarship to attend any such alternative school. 18813
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(I) The superintendent of each cooperative education school district shall certify to the superintendent of public instruction, in a manner prescribed by the state board of education, the average daily attendance for all students in the cooperative education district, also indicating the city, local, or exempted village district where each pupil is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. 18816
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Sec. 3317.05. (A) For the purpose of calculating payments under sections 3317.052 and 3317.053 of the Revised Code, the ~~state board~~ department of education shall determine for each institution, by the last day of January of each year and based on information certified under section 3317.03 of the Revised Code, the number of vocational education units or fractions of units 18824
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approved by the ~~state board~~ department on the basis of standards 18830
and rules adopted by the state board of education. As used in this 18831
division, "institution" means an institution operated by a 18832
department specified in section 3323.091 of the Revised Code and 18833
that provides vocational education programs under the supervision 18834
of the division of vocational education of the department ~~of~~ 18835
~~education~~ that meet the standards and rules for these programs, 18836
including licensure of professional staff involved in the 18837
programs, as established by the state board ~~of education~~. 18838

(B) For the purpose of calculating payments under sections 18839
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 18840
~~state board~~ department shall determine, based on information 18841
certified under section 3317.03 of the Revised Code, the following 18842
by the last day of January of each year for each educational 18843
service center, for each school district, including each 18844
cooperative education school district, for each institution 18845
eligible for payment under section 3323.091 of the Revised Code, 18846
and for each county MR/DD board: the number of classes operated by 18847
the school district, service center, institution, or county MR/DD 18848
board for handicapped preschool children, or fraction thereof, 18849
including in the case of a district or service center that is a 18850
funding agent, classes taught by a licensed teacher employed by 18851
that district or service center under section 3313.841 of the 18852
Revised Code, approved annually by the ~~state board~~ department on 18853
the basis of standards and rules adopted by the state board. 18854

(C) For the purpose of calculating payments under sections 18855
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 18856
~~state board~~ department shall determine, based on information 18857
certified under section 3317.03 of the Revised Code, the following 18858
by the last day of January of each year for each school district, 18859
including each cooperative education school district, for each 18860
institution eligible for payment under section 3323.091 of the 18861

Revised Code, and for each county MR/DD board: the number of 18862
preschool handicapped related services units for child study, 18863
occupational, physical, or speech and hearing therapy, special 18864
education supervisors, and special education coordinators approved 18865
annually by the ~~state board~~ department on the basis of standards 18866
and rules adopted by the state board. 18867

(D) For the purpose of calculating payments under sections 18868
3317.052 and 3317.053 of the Revised Code, the ~~state board~~ 18869
department shall determine, based on information certified under 18870
section 3317.03 of the Revised Code, the following by the last day 18871
of January of each year for each institution eligible for payment 18872
under section 3323.091 of the Revised Code: 18873

(1) The number of classes operated by an institution for 18874
handicapped children other than handicapped preschool children, or 18875
fraction thereof, approved annually by the ~~state board~~ department 18876
on the basis of standards and rules adopted by the state board; 18877

(2) The number of related services units for children other 18878
than handicapped preschool children for child study, occupational, 18879
physical, or speech and hearing therapy, special education 18880
supervisors, and special education coordinators approved annually 18881
by the ~~state board~~ department on the basis of standards and rules 18882
adopted by the state board. 18883

(E) All of the arithmetical calculations made under this 18884
section shall be carried to the second decimal place. The total 18885
number of units for school districts, service centers, and 18886
institutions approved annually ~~by the state board~~ under this 18887
section shall not exceed the number of units included in the ~~state~~ 18888
~~board's~~ estimate of cost for these units and appropriations made 18889
for them by the general assembly. 18890

In the case of units described in division (D)(1) of this 18891
section operated by institutions eligible for payment under 18892

section 3323.091 of the Revised Code, the ~~state board~~ department 18893
shall approve only units for persons who are under age twenty-two 18894
on the first day of the academic year, but not less than six years 18895
of age on the thirtieth day of September of that year, except that 18896
such a unit may include one or more children who are under six 18897
years of age on the thirtieth day of September if such children 18898
have been admitted to the unit pursuant to rules of the state 18899
board. In the case of handicapped preschool units described in 18900
division (B) of this section ~~operated by county MR/DD boards and~~ 18901
~~institutions eligible for payment under section 3323.091 of the~~ 18902
~~Revised Code, the state board~~ department shall approve only 18903
preschool units for children who are under age six but not less 18904
than age three on the ~~thirtieth~~ first day of ~~September~~ December of 18905
the academic year, except that such a unit may include one or more 18906
children who are under age three or are age six or over on the 18907
~~thirtieth~~ first day of ~~September~~ December, as reported under 18908
division (B)(2) or (G)(2)(b) of section 3317.03 of the Revised 18909
Code, if such children have been admitted to the unit pursuant to 18910
rules of the state board ~~of education~~. The number of units for 18911
county MR/DD boards and institutions eligible for payment under 18912
section 3323.091 of the Revised Code approved ~~by the state board~~ 18913
under this section shall not exceed the number that can be funded 18914
with appropriations made for such purposes by the general 18915
assembly. 18916

No unit shall be approved under divisions (B) to (D) of this 18917
section unless a plan has been submitted and approved under 18918
Chapter 3323. of the Revised Code. 18919

(F) The department shall approve units or fractions thereof 18920
for gifted children on the basis of standards and rules adopted by 18921
the state board. 18922

Sec. 3317.064. (A) There is hereby established in the state 18923

treasury the auxiliary services ~~mobile unit replacement and repair~~ 18924
reimbursement fund. By the thirtieth day of January of each 18925
odd-numbered year, the director of job and family services and the 18926
superintendent of public instruction shall determine the amount of 18927
any excess moneys in the auxiliary services personnel unemployment 18928
compensation fund not reasonably necessary for the purposes of 18929
section 4141.47 of the Revised Code, and shall certify such amount 18930
to the director of budget and management for transfer to the 18931
auxiliary services ~~mobile unit replacement and repair~~ 18932
reimbursement fund. If the director of job and family services and 18933
the superintendent disagree on such amount, the director of budget 18934
and management shall determine the amount to be transferred. 18935

(B) Moneys in the auxiliary services ~~mobile unit replacement~~ 18936
~~and repair~~ reimbursement fund shall be used for the relocation or 18937
for the replacement and repair of mobile units used to provide the 18938
services specified in division (E), (F), (G), or (I) of section 18939
3317.06 of the Revised Code. The state board of education shall 18940
adopt guidelines and procedures for replacement, repair, and 18941
relocation of mobile units and the procedures under which a school 18942
district may apply to receive moneys with which to repair or 18943
replace or relocate such units. 18944

(C) School districts may apply to the department for moneys 18945
from the auxiliary services ~~mobile unit replacement and repair~~ 18946
reimbursement fund for payment of incentives for early retirement 18947
and severance for school district personnel assigned to provide 18948
services authorized by section 3317.06 of the Revised Code at 18949
chartered nonpublic schools. The portion of the cost of any early 18950
retirement or severance incentive for any employee that is paid 18951
using money from the auxiliary services ~~mobile unit replacement~~ 18952
~~and repair~~ reimbursement fund shall not exceed the percentage of 18953
such employee's total service credit that the employee spent 18954
providing services to chartered nonpublic school students under 18955

section 3317.06 of the Revised Code. 18956

Sec. 3317.07. The state board of education shall establish 18957
rules for the purpose of distributing subsidies for the purchase 18958
of school buses under division (E) of section 3317.024 of the 18959
Revised Code. 18960

No school bus subsidy payments shall be paid to any district 18961
unless such district can demonstrate that pupils residing more 18962
than one mile from the school could not be transported without 18963
such additional aid. 18964

The amount paid to a county MR/DD board for buses purchased 18965
for transportation of children in special education programs 18966
operated by the board shall be one hundred per cent of the board's 18967
net cost. 18968

The amount paid to a school district for buses purchased for 18969
transportation of handicapped and nonpublic school pupils shall be 18970
one hundred per cent of the school district's net cost. 18971

The state board of education shall adopt a formula to 18972
determine the amount of payments that shall be distributed to 18973
school districts to purchase school buses for pupils other than 18974
handicapped or nonpublic school pupils. 18975

If any district or MR/DD board obtains bus services for pupil 18976
transportation pursuant to a contract, such district or board may 18977
use payments received under this section to defray the costs of 18978
contracting for bus services in lieu of for purchasing buses. 18979

If the department of education determines that a county MR/DD 18980
board no longer needs a school bus because the board no longer 18981
transports children to a special education program operated by the 18982
board, or if the department determines that a school district no 18983
longer needs a school bus to transport pupils to a particular 18984
nonpublic school or special education program, the department may 18985

reassign a bus that was funded with payments provided pursuant to 18986
this section for the purpose of transporting such pupils. The 18987
department may reassign a bus to a county MR/DD board or school 18988
district that transports children to a special education program 18989
designated in the children's individualized education plans, or to 18990
a school district that transports pupils to a nonpublic school, 18991
and needs an additional school bus. 18992

Sec. 3317.081. (A) Tuition shall be computed in accordance 18993
with this section if: 18994

(1) The tuition is required by division (C)(3)(b) of section 18995
3313.64 of the Revised Code; or 18996

(2) Neither the child nor the child's parent resides in this 18997
state and tuition is required by section 3327.06 of the Revised 18998
Code. 18999

(B) Tuition computed in accordance with this section shall 19000
equal the attendance district's tuition rate computed under 19001
section 3317.08 of the Revised Code plus the amount that district 19002
would have received for the child pursuant to sections 3317.022, 19003
3317.023, and 3317.025 to 3317.0213 of the Revised Code during the 19004
school year had the attendance district been authorized to count 19005
the child in its formula ADM and average daily attendance for that 19006
school year under ~~section~~ sections 3317.03 and 3317.034 of the 19007
Revised Code. 19008

Sec. 3317.09. All moneys distributed to a school district, 19009
including any cooperative education or joint vocational school 19010
district and all moneys distributed to any educational service 19011
center, by the state whether from a state or federal source, shall 19012
be accounted for by the division of school finance of the 19013
department of education. All moneys distributed shall be coded as 19014
to county, school district or educational service center, source, 19015

and other pertinent information, and at the end of each month, a 19016
report of such distribution shall be made by such division of 19017
school finance to the clerk of the senate and the chief 19018
administrative officer of the house of representatives, to the 19019
Ohio legislative service commission to be available for 19020
examination by any member of either house, to each school district 19021
and educational service center, and to the governor. 19022

On or before the first day of September in each year, a copy 19023
of the annual statistical report required in ~~sections~~ section 19024
3319.33 ~~and 3319.34~~ of the Revised Code shall be filed by the 19025
state board of education with the clerk of the senate and the 19026
chief administrative officer of the house of representatives, the 19027
Ohio legislative service commission, the governor, and the auditor 19028
of state. The report shall contain an analysis for the prior 19029
fiscal year on an accrual basis of revenue receipts from all 19030
sources and expenditures for all purposes for each school district 19031
~~and each educational service center~~, including each joint 19032
vocational and cooperative education school district, in the 19033
state. If any board of education ~~or any educational service center~~ 19034
~~governing board~~ fails to make the report required in ~~sections~~ 19035
section 3319.33 ~~and 3319.34~~ of the Revised Code, the 19036
superintendent of public instruction shall be without authority to 19037
distribute funds to that school district or educational service 19038
center pursuant to sections 3317.022 to 3317.0212, 3317.11, 19039
3317.16, 3317.17, or 3317.19 of the Revised Code until such time 19040
as the required reports are filed with all specified officers, 19041
boards, or agencies. 19042

Sec. 3317.10. (A) On or before the first day of March of each 19043
year, the department of job and family services shall certify to 19044
the state board of education the unduplicated number of children 19045
ages five through seventeen residing in each school district and 19046
living in a family that, during the preceding October, had family 19047

income not exceeding the federal poverty guidelines as defined in 19048
section 5101.46 of the Revised Code and participated in one of the 19049
following: 19050

(1) Ohio works first; 19051

(2) The food stamp program; 19052

(3) The medical assistance program, including the healthy 19053
start program, established under Chapter 5111. of the Revised 19054
Code; 19055

(4) The children's health insurance program part I 19056
established under section 5101.50 of the Revised Code; 19057

(5) The disability financial assistance program established 19058
under Chapter 5115. of the Revised Code; 19059

(6) The disability medical assistance program established 19060
under Chapter 5115. of the Revised Code. 19061

The department of job and family services shall certify this 19062
information according to the school district of residence for each 19063
child. Except as provided under division (B) of this section, the 19064
number of children so certified in any year shall be used by the 19065
department of education in calculating the distribution of moneys 19066
for the ensuing fiscal year as provided in section 3317.029 of the 19067
Revised Code. 19068

(B) Upon the transfer of part of the territory of one school 19069
district to the territory of one or more other school districts, 19070
the department of education may adjust the number of children 19071
certified under division (A) of this section for any district 19072
gaining or losing territory in such a transfer in order to take 19073
into account the effect of the transfer on the number of such 19074
children who reside in the district. Within sixty days of receipt 19075
of a request for information from the department of education, the 19076
department of job and family services shall provide any 19077

information the department of education determines is necessary to 19078
make such adjustments. The department of education may use the 19079
adjusted number for any district for the applicable fiscal year, 19080
in lieu of the number certified for the district for that fiscal 19081
year under division (A) of this section, in the calculation of the 19082
distribution of moneys provided in section 3317.029 of the Revised 19083
Code. 19084

Sec. 3317.11. (A) As used in this section: 19085

(1) "Client school district" means a city or exempted village 19086
school district that has entered into an agreement under section 19087
3313.843 of the Revised Code to receive any services from an 19088
educational service center. 19089

(2) "Service center ADM" means the sum of the total student 19090
counts of all local school districts within an educational service 19091
center's territory and all of the service center's client school 19092
districts. 19093

(3) "Total student count" has the same meaning as in section 19094
3301.011 of the Revised Code. 19095

(B)(1) The governing board of each educational service center 19096
shall provide supervisory services to each local school district 19097
within the service center's territory. Each city or exempted 19098
village school district that enters into an agreement under 19099
section 3313.843 of the Revised Code for a governing board to 19100
provide any services also is considered to be provided supervisory 19101
services by the governing board. Except as provided in division 19102
(B)(2) of this section, the supervisory services shall not exceed 19103
one supervisory teacher for the first fifty classroom teachers 19104
required to be employed in the districts, as calculated under 19105
section 3317.023 of the Revised Code, and one for each additional 19106
one hundred required classroom teachers, as so calculated. 19107

The supervisory services shall be financed annually through 19108
supervisory units. Except as provided in division (B)(2) of this 19109
section, the number of supervisory units assigned to each district 19110
shall not exceed one unit for the first fifty classroom teachers 19111
required to be employed in the district, as calculated under 19112
section 3317.023 of the Revised Code, and one for each additional 19113
one hundred required classroom teachers, as so calculated. The 19114
cost of each supervisory unit shall be the sum of: 19115

(a) The minimum salary prescribed by section 3317.13 of the 19116
Revised Code for the licensed supervisory employee of the 19117
governing board; 19118

(b) An amount equal to fifteen per cent of the salary 19119
prescribed by section 3317.13 of the Revised Code; 19120

(c) An allowance for necessary travel expenses, limited to 19121
the lesser of two hundred twenty-three dollars and sixteen cents 19122
per month or two thousand six hundred seventy-eight dollars per 19123
year. 19124

(2) If a majority of the boards of education, or 19125
superintendents acting on behalf of the boards, of the local and 19126
client school districts receiving services from the educational 19127
service center agree to receive additional supervisory services 19128
and to pay the cost of a corresponding number of supervisory units 19129
in excess of the services and units specified in division (B)(1) 19130
of this section, the service center shall provide the additional 19131
services as agreed to by the majority of districts to, and the 19132
department of education shall apportion the cost of the 19133
corresponding number of additional supervisory units pursuant to 19134
division (B)(3) of this section among, all of the service center's 19135
local and client school districts. 19136

(3) The department shall apportion the total cost for all 19137
supervisory units among the service center's local and client 19138

school districts based on each district's total student count. The 19139
department shall deduct each district's apportioned share pursuant 19140
to division (E) of section 3317.023 of the Revised Code and pay 19141
the apportioned share to the service center. 19142

(C) The department annually shall deduct from each local and 19143
client school district of each educational service center, 19144
pursuant to division (E) of section 3317.023 of the Revised Code, 19145
and pay to the service center an amount equal to six dollars and 19146
fifty cents times the school district's total student count. The 19147
board of education, or the superintendent acting on behalf of the 19148
board, of any local or client school district may agree to pay an 19149
amount in excess of six dollars and fifty cents per student in 19150
total student count. If a majority of the boards of education, or 19151
superintendents acting on behalf of the boards, of the local 19152
school districts within a service center's territory approve an 19153
amount in excess of six dollars and fifty cents per student in 19154
total student count, the department shall deduct the approved 19155
excess per student amount from all of the local school districts 19156
within the service center's territory and pay the excess amount to 19157
the service center. 19158

(D) The department shall pay each educational service center 19159
the amounts due to it from school districts pursuant to contracts, 19160
compacts, or agreements under which the service center furnishes 19161
services to the districts or their students. In order to receive 19162
payment under this division, an educational service center shall 19163
furnish either a copy of the contract, compact, or agreement 19164
clearly indicating the amounts of the payments, or a written 19165
statement that clearly indicates the payments owed and is signed 19166
by the superintendent or treasurer of the responsible school 19167
district. The amounts paid to service centers under this division 19168
shall be deducted from payments to school districts pursuant to 19169
division (K)(3) of section 3317.023 of the Revised Code. 19170

(E) Each school district's deduction under this section and divisions (E) and (K)(3) of section 3317.023 of the Revised Code shall be made from the total payment computed for the district under this chapter, after making any other adjustments in that payment required by law. 19171
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(F)(1) Except as provided in division (F)(2) of this section, the department annually shall pay the governing board of each educational service center state funds equal to thirty-seven dollars times its service center ADM. 19176
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(2) The department annually shall pay state funds equal to forty dollars and fifty-two cents times the service center ADM to each educational service center comprising territory that was included in the territory of at least three former service centers or county school districts, which former centers or districts engaged in one or more mergers under section 3311.053 of the Revised Code to form the present center. 19180
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(G) Each city, exempted village, local, joint vocational, or cooperative education school district shall pay to the governing board of an educational service center any amounts agreed to for each child enrolled in the district who receives special education and related services or career-technical education from the educational service center, unless these educational services are provided pursuant to a contract, compact, or agreement for which the department deducts and transfers payments under division (D) of this section and division (K)(3) of section 3317.023 of the Revised Code. 19187
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19195
19196

(H) An educational service center: 19197

(1) May provide special education and career-technical education to students in its local or client school districts; 19198
19199

(2) Is eligible for transportation funding under division (J) of section 3317.024 of the Revised Code and for state subsidies 19200
19201

for the purchase of school buses under section 3317.07 of the 19202
Revised Code; 19203

(3) May apply for and receive gifted education units and 19204
provide gifted education services to students in its local or 19205
client school districts; 19206

(4) May conduct driver education for high school students in 19207
accordance with Chapter 4508. of the Revised Code. 19208

Sec. 3317.16. (A) As used in this section: 19209

(1) "State share percentage" means the percentage calculated 19210
for a joint vocational school district as follows: 19211

(a) Calculate the state base cost funding amount for the 19212
district under division (B) of this section. If the district would 19213
not receive any base cost funding for that year under that 19214
division, the district's state share percentage is zero. 19215

(b) If the district would receive base cost funding under 19216
that division, divide that base cost amount by an amount equal to 19217
the following: 19218

cost-of-doing-business factor X 19219

the formula amount X 19220

~~the greater of formula ADM or~~ 19221

~~three year average formula ADM~~ 19222

average daily attendance 19223

The resultant number is the district's state share 19224
percentage. 19225

(2) The "total special education weight" for a joint 19226
vocational school district shall be calculated in the same manner 19227
as prescribed in division (B)(1) of section 3317.022 of the 19228
Revised Code. 19229

(3) The "total vocational education weight" for a joint 19230
vocational school district shall be calculated in the same manner 19231

as prescribed in division (B)(4) of section 3317.022 of the Revised Code. 19232
19233

(4) The "total recognized valuation" of a joint vocational school district shall be determined by adding the recognized valuations of all its constituent school districts for the applicable fiscal year. 19234
19235
19236
19237

(5) "Resident district" means the city, local, or exempted village school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. 19238
19239
19240

(6) "Community school" means a community school established under Chapter 3314. of the Revised Code. 19241
19242

(B) The department of education shall compute and distribute state base cost funding to each joint vocational school district for the fiscal year in accordance with the following formula: 19243
19244
19245

(cost-of-doing-business factor X
formula amount X ~~the greater of formula
ADM or three-year average formula ADM~~
average daily attendance) -
(.0005 X total recognized valuation) 19246
19247
19248
19249
19250

If the difference obtained under this division is a negative number, the district's computation shall be zero. 19251
19252

(C)(1) The department shall compute and distribute state vocational education additional weighted costs funds to each joint vocational school district in accordance with the following formula: 19253
19254
19255
19256

state share percentage X formula amount X
total vocational education weight 19257
19258

(2) The department shall compute for each joint vocational school district state funds for vocational education associated services costs in accordance with the following formula: 19259
19260
19261

state share percentage X .05 X 19262

the formula amount X the sum of 19263
categories one and two vocational 19264
education ADM 19265

In any fiscal year, a joint vocational school district 19266
receiving funds under division (C)(2) of this section, or through 19267
a transfer of funds pursuant to division (L) of section 3317.023 19268
of the Revised Code, shall spend those funds only for the purposes 19269
that the department designates as approved for vocational 19270
education associated services expenses, which may include such 19271
purposes as apprenticeship coordinators, coordinators for other 19272
vocational education services, vocational evaluation, and other 19273
purposes designated by the department. The department may deny 19274
payment under division (C)(2) of this section to any district that 19275
the department determines is not operating those services or is 19276
using funds paid under division (C)(2) of this section, or through 19277
a transfer of funds pursuant to division (L) of section 3317.023 19278
of the Revised Code, for other purposes. 19279

(D)(1) The department shall compute and distribute state 19280
special education and related services additional weighted costs 19281
funds to each joint vocational school district in accordance with 19282
the following formula: 19283

state share percentage X formula amount X 19284
total special education weight 19285

(2)(a) As used in this division, the "personnel allowance" 19286
means thirty thousand dollars in fiscal years 2002 ~~and~~, 2003, 19287
2004, and 2005. 19288

(b) For the provision of speech services to students, 19289
including students who do not have individualized education 19290
programs prepared for them under Chapter 3323. of the Revised 19291
Code, and for no other purpose, the department shall pay each 19292
joint vocational school district an amount calculated under the 19293
following formula: 19294

(formula ADM divided by 2000) X the personnel 19295
allowance X state share percentage 19296

(3) In any fiscal year, a joint vocational school district 19297
shall spend for purposes that the department designates as 19298
approved for special education and related services expenses at 19299
least the amount calculated as follows: 19300

(cost-of-doing-business factor X formula amount 19301
X the sum of categories one through 19302
six special education ADM) + 19303
(total special education weight X 19304
formula amount) 19305

The purposes approved by the department for special education 19306
expenses shall include, but shall not be limited to, compliance 19307
with state rules governing the education of handicapped children, 19308
providing services identified in a student's individualized 19309
education program as defined in section 3323.01 of the Revised 19310
Code, and the portion of the district's overall administrative and 19311
overhead costs that are attributable to the district's special 19312
education student population. 19313

The department shall require joint vocational school 19314
districts to report data annually to allow for monitoring 19315
compliance with division (D)(3) of this section. The department 19316
shall annually report to the governor and the general assembly the 19317
amount of money spent by each joint vocational school district for 19318
special education and related services. 19319

(E)~~(2)~~(1) If a joint vocational school district's costs for a 19320
fiscal year for a student in its categories ~~one~~ two through six 19321
special education ADM exceed the threshold catastrophic cost for 19322
serving the student, as specified in division (C)(3)(b) of section 19323
3317.022 of the Revised Code, the district may submit to the 19324
superintendent of public instruction documentation, as prescribed 19325
by the superintendent, of all of its costs for that student. Upon 19326

submission of documentation for a student of the type and in the 19327
manner prescribed, the department shall pay to the district an 19328
amount equal to the sum of the following: 19329

(a) One-half of the district's costs for the student in 19330
excess of the threshold catastrophic cost; 19331

(b) The product of one-half of the district's costs for the 19332
student in excess of the threshold catastrophic cost multiplied by 19333
the district's state share percentage. 19334

(2) The district shall only report under division (E)(1) of 19335
this section, and the department shall only pay for, the costs of 19336
educational expenses and the related services provided to the 19337
student in accordance with the student's individualized education 19338
program. Any legal fees, court costs, or other costs associated 19339
with any cause of action relating to the student may not be 19340
included in the amount. 19341

(F) Each fiscal year, the department shall pay each joint 19342
vocational school district an amount for adult technical and 19343
vocational education and specialized consultants. 19344

(G)(1) A joint vocational school district's local share of 19345
special education and related services additional weighted costs 19346
equals: 19347

(1 - state share percentage) X 19348
Total special education weight X 19349
the formula amount 19350

(2) For each handicapped student receiving special education 19351
and related services under an individualized education program, as 19352
defined in section 3323.01 of the Revised Code, at a joint 19353
vocational district, the resident district or, if the student is 19354
enrolled in a community school, the community school shall be 19355
responsible for the amount of any costs of providing those special 19356
education and related services to that student that exceed the sum 19357

of the amount calculated for those services attributable to that 19358
student under divisions (B), (D), (E), and (G)(1) of this section. 19359

Those excess costs shall be calculated by subtracting the sum 19360
of the following from the actual cost to provide special education 19361
and related services to the student: 19362

(a) The product of the formula amount times the 19363
cost-of-doing-business factor; 19364

(b) The product of the formula amount times the applicable 19365
multiple specified in section 3317.013 of the Revised Code; 19366

(c) Any funds paid under division (E) of this section for the 19367
student; 19368

(d) Any other funds received by the joint vocational school 19369
district under this chapter to provide special education and 19370
related services to the student, not including the amount 19371
calculated under division (G)(2) of this section. 19372

(3) The board of education of the joint vocational school 19373
district shall report the excess costs calculated under division 19374
(G)(2) of this section to the department of education. 19375

(4) The department shall pay the amount of excess cost 19376
calculated under division (G)(2) of this section to the joint 19377
vocational school district and shall deduct that amount as 19378
provided in division (G)(4)(a) or (b) of this section, as 19379
applicable: 19380

(a) If the student is not enrolled in a community school, the 19381
department shall deduct the amount from the account of the 19382
student's resident district pursuant to division (M) of section 19383
3317.023 of the Revised Code. 19384

(b) If the student is enrolled in a community school, the 19385
department shall deduct the amount from the account of the 19386
community school pursuant to section 3314.083 of the Revised Code. 19387

(H) In any fiscal year, if the total of all payments made to a joint vocational school district under divisions (B) to (D) of this section and division (R) of section 3317.024 of the Revised Code is less than the amount that district received in fiscal year 1999 under the version of this section in effect that year, plus the amount that district received under the version of section 3317.162 of the Revised Code in effect that year and minus the amounts received that year for driver education and adult education, the department shall pay the district an additional amount equal to the difference between those two amounts.

Sec. 3318.01. As used in sections 3318.01 to 3318.20 of the Revised Code:

(A) "Ohio school facilities commission" means the commission created pursuant to section 3318.30 of the Revised Code.

(B) "Classroom facilities" means rooms in which pupils regularly assemble in public school buildings to receive instruction and education and such facilities and building improvements for the operation and use of such rooms as may be needed in order to provide a complete educational program, and may include space within which a child day-care facility or a community resource center is housed. "Classroom facilities" includes any space necessary for the operation of a vocational education program for secondary students in any school district that operates such a program.

(C) "Project" means a project to construct or acquire classroom facilities, or to reconstruct or make additions to existing classroom facilities, to be used for housing the applicable school district and its functions.

(D) "School district" means a local, exempted village, or city school district as such districts are defined in Chapter

3311. of the Revised Code, acting as an agency of state 19418
government, performing essential governmental functions of state 19419
government pursuant to sections 3318.01 and 3318.20 of the Revised 19420
Code. 19421

For purposes of assistance provided under sections 3318.40 to 19422
3318.45 of the Revised Code, the term "school district" as used in 19423
this section and in divisions (A), (C), and (D) of section 3318.03 19424
and in sections 3318.031, 3318.033, 3318.042, 3318.07, 3318.08, 19425
3318.083, 3318.084, 3318.085, 3318.086, 3318.10, 3318.11, 3318.12, 19426
3318.13, 3318.14, 3318.15, 3318.16, 3318.19, and 3318.20 of the 19427
Revised Code means a joint vocational school district established 19428
pursuant to section 3311.18 of the Revised Code. 19429

(E) "School district board" means the board of education of a 19430
school district. 19431

(F) "Net bonded indebtedness" means the difference between 19432
the sum of the par value of all outstanding and unpaid bonds and 19433
notes which a school district board is obligated to pay, any 19434
amounts the school district is obligated to pay under 19435
lease-purchase agreements entered into under section 3313.375 of 19436
the Revised Code, and the par value of bonds authorized by the 19437
electors but not yet issued, the proceeds of which can lawfully be 19438
used for the project, and the amount held in the sinking fund and 19439
other indebtedness retirement funds for their redemption. Notes 19440
issued for school buses in accordance with section 3327.08 of the 19441
Revised Code, notes issued in anticipation of the collection of 19442
current revenues, and bonds issued to pay final judgments shall 19443
not be considered in calculating the net bonded indebtedness. 19444

"Net bonded indebtedness" does not include indebtedness 19445
arising from the acquisition of land to provide a site for 19446
classroom facilities constructed, acquired, or added to pursuant 19447
to sections 3318.01 to 3318.20 of the Revised Code. 19448

(G) "Board of elections" means the board of elections of the county containing the most populous portion of the school district.

(H) "County auditor" means the auditor of the county in which the greatest value of taxable property of such school district is located.

(I) "Tax duplicates" means the general tax lists and duplicates prescribed by sections 319.28 and 319.29 of the Revised Code.

(J) "Required level of indebtedness" means:

(1) In the case of districts in the first percentile, five per cent of the district's valuation for the year preceding the year in which the controlling board approved the project under section 3318.04 of the Revised Code.

(2) In the case of districts ranked in a subsequent percentile, five per cent of the district's valuation for the year preceding the year in which the controlling board approved the project under section 3318.04 of the Revised Code, plus [two one-hundredths of one per cent multiplied by (the percentile in which the district ranks for the fiscal year preceding the fiscal year in which the controlling board approved the district's project minus one)].

(K) "Required percentage of the basic project costs" means one per cent of the basic project costs times the percentile in which the district ranks for the fiscal year preceding the fiscal year in which the controlling board approved the district's project.

(L) "Basic project cost" means a cost amount determined in accordance with rules adopted under section 111.15 of the Revised Code by the Ohio school facilities commission. The basic project

cost calculation shall take into consideration the square footage 19479
and cost per square foot necessary for the grade levels to be 19480
housed in the classroom facilities, the variation across the state 19481
in construction and related costs, the cost of the installation of 19482
site utilities and site preparation, the cost of demolition of all 19483
or part of any existing classroom facilities that are abandoned 19484
under the project, the cost of insuring the project until it is 19485
completed, any contingency reserve amount prescribed by the 19486
commission under section 3318.086 of the Revised Code, and the 19487
professional planning, administration, and design fees that a 19488
district may have to pay to undertake a classroom facilities 19489
project. 19490

For a joint vocational school district that receives 19491
assistance under sections 3318.40 to 3318.45 of the Revised Code, 19492
the basic project cost calculation for a project under those 19493
sections shall also take into account the types of laboratory 19494
spaces and program square footages needed for the vocational 19495
education programs for high school students offered by the school 19496
district. 19497

"Basic project cost" also includes the value of classroom 19498
facilities ~~authorized in a pre-existing bond issue~~ as described in 19499
section 3318.033 of the Revised Code. 19500

(M)(1) Except for a joint vocational school district that 19501
receives assistance under sections 3318.40 to 3318.45 of the 19502
Revised Code, a "school district's portion of the basic project 19503
cost" means the amount determined under section 3318.032 of the 19504
Revised Code. 19505

(2) For a joint vocational school district that receives 19506
assistance under sections 3318.40 to 3318.45 of the Revised Code, 19507
a "school district's portion of the basic project cost" means the 19508
amount determined under division (C) of section 3318.42 of the 19509
Revised Code. 19510

(N) "Child day-care facility" means space within a classroom facility in which the needs of infants, toddlers, preschool children, and school children are provided for by persons other than the parent or guardian of such children for any part of the day, including persons not employed by the school district operating such classroom facility.

(O) "Community resource center" means space within a classroom facility in which comprehensive services that support the needs of families and children are provided by community-based social service providers.

(P) "Valuation" means the total value of all property in the district as listed and assessed for taxation on the tax duplicates.

(Q) "Percentile" means the percentile in which the district is ranked pursuant to division (D) of section 3318.011 of the Revised Code.

(R) "Installation of site utilities" means the installation of a site domestic water system, site fire protection system, site gas distribution system, site sanitary system, site storm drainage system, and site telephone and data system.

(S) "Site preparation" means the earthwork necessary for preparation of the building foundation system, the paved pedestrian and vehicular circulation system, playgrounds on the project site, and lawn and planting on the project site.

Sec. 3318.024. In any fiscal year, any funds appropriated to the Ohio school facilities commission for classroom facilities projects under this chapter in the previous fiscal year that are not spent or encumbered, or for which encumbrance has been released under section 3318.05 of the Revised Code, shall be allocated by the commission only for projects under sections

3318.01 to 3318.20 of the Revised Code, subject to appropriation 19541
by the general assembly. 19542

Sec. 3318.03. (A) Before conducting an on-site evaluation of 19543
a school district under section 3318.02 of the Revised Code, at 19544
the request of the district board of education, the Ohio school 19545
facilities commission shall examine any classroom facilities needs 19546
assessment that has been conducted by the district and any master 19547
plan developed for meeting the facility needs of the district. 19548

(B) Upon conducting the on-site evaluation under section 19549
3318.02 of the Revised Code, the Ohio school facilities commission 19550
shall make a determination of all of the following: 19551

(1) The needs of the school district for additional classroom 19552
facilities; 19553

(2) The number of classroom facilities to be included in a 19554
project, including classroom facilities ~~authorized by a bond issue~~ 19555
described in section 3318.033 of the Revised Code, and the basic 19556
project cost of constructing, acquiring, reconstructing, or making 19557
additions to each such facility; 19558

(3) The amount of such cost that the school district can 19559
supply from available funds, by the issuance of bonds previously 19560
authorized by the electors of the school district the proceeds of 19561
which can lawfully be used for the project, including bonds 19562
authorized by the district's electors as described in section 19563
3318.033 of the Revised Code, and by the issuance of bonds under 19564
section 3318.05 of the Revised Code; 19565

(4) The remaining amount of such cost that shall be supplied 19566
by the state; 19567

(5) The amount of the state's portion to be encumbered in 19568
accordance with section 3318.11 of the Revised Code in the current 19569
and subsequent fiscal bienniums from funds appropriated for 19570

purposes of sections 3318.01 to 3318.20 of the Revised Code. 19571

(C) The commission shall make a determination in favor of 19572
constructing, acquiring, reconstructing, or making additions to a 19573
classroom facility only upon evidence that the proposed project 19574
conforms to sound educational practice, that it is in keeping with 19575
the orderly process of school district reorganization and 19576
consolidation, and that the actual or projected enrollment in each 19577
classroom facility proposed to be included in the project is at 19578
least three hundred fifty pupils. Exceptions shall be authorized 19579
only in those districts where topography, sparsity of population, 19580
and other factors make larger schools impracticable. 19581

(D) Sections 125.81 and 153.04 of the Revised Code shall not 19582
apply to classroom facilities constructed under either sections 19583
3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised 19584
Code. 19585

Sec. 3318.033. ~~If the electors of a school district have~~ 19586
~~approved the issuance of bonds for the acquisition of classroom~~ 19587
~~facilities within eighteen~~ twenty-four months prior to ~~the a~~ 19588
school district board's receipt of a notification by the Ohio 19589
school facilities commission that the school district is eligible 19590
for state assistance under either sections 3318.01 to 3318.20 or 19591
sections 3318.40 to 3318.45 of the Revised Code the electors of 19592
the school district have approved the issuance of bonds in any 19593
amount for the acquisition of classroom facilities or the school 19594
district board has spent other school district resources in an 19595
amount of not less than one million dollars for the acquisition of 19596
classroom facilities, and if the classroom facilities supported by 19597
that bond measure or acquired with other school district resources 19598
comply with the commission's design specifications for such a 19599
project, the commission shall include the value of those classroom 19600
facilities in the basic project cost of the school district's 19601

project determined under section 3318.03 or division (A)(1)(a) of 19602
section 3318.41 of the Revised Code and shall deduct the amount of 19603
the bonds authorized in that bond measure or the amount of other 19604
school district resources spent from the amount of the school 19605
district's portion of the basic project cost as determined under 19606
section 3318.032 or 3318.42 of the Revised Code. 19607

A school district board may combine the credit for previously 19608
issued bonds authorized under this section along with any local 19609
donated contribution, as described under section 3318.084 of the 19610
Revised Code, in meeting the school district's obligation to raise 19611
its portion of the basic project cost of its classroom facilities 19612
project under sections 3318.01 to 3318.20 or sections 3318.40 to 19613
3318.45 of the Revised Code. 19614

Sec. 3318.052. At any time after the electors of a school 19615
district have approved either or both a property tax levied under 19616
section 5705.21 or 5705.218 of the Revised Code for the purpose of 19617
general ongoing permanent improvements or a school district income 19618
tax levied under Chapter 5748. of the Revised Code, the proceeds 19619
of which, pursuant to the ballot measures approved by the 19620
electors, are not so restricted that they cannot be used to pay 19621
the costs of a project or maintaining classroom facilities, the 19622
school district board may: 19623

(A) Within one year following the date of the certification 19624
of the conditional approval of the school district's classroom 19625
facilities project by the Ohio school facilities commission, enter 19626
into a written agreement with the commission, which may be part of 19627
an agreement entered into under section 3318.08 of the Revised 19628
Code, and in which the school district board covenants and agrees 19629
to do one or both of the following: 19630

(1) Apply a specified amount of available proceeds of that 19631
property tax levy, of that school district income tax, or of 19632

securities issued under this section, or of proceeds from any two 19633
or more of those sources, to pay all or part of the district's 19634
portion of the basic project cost of its classroom facilities 19635
project; 19636

(2) Apply available proceeds of either or both a property tax 19637
levied under section 5705.21 or 5705.218 of the Revised Code in 19638
effect for a continuing period of time, or of a school district 19639
income tax levied under Chapter 5748. of the Revised Code in 19640
effect for a continuing period of time to the payment of costs of 19641
maintaining the classroom facilities. 19642

(B) Receive, as a credit against the amount of bonds required 19643
under sections 3318.05 and 3318.06 of the Revised Code, to be 19644
approved by the electors of the district and issued by the 19645
district board for the district's portion of the basic project 19646
cost of its classroom facilities project in order for the district 19647
to receive state assistance for the project, an amount equal to 19648
the specified amount that the district board covenants and agrees 19649
with the commission to apply as set forth in division (A)(1) of 19650
this section; 19651

(C) Receive, as a credit against the amount of the tax levy 19652
required under sections 3318.05 and 3318.06 of the Revised Code, 19653
to be approved by the electors of the district to pay the costs of 19654
maintaining the classroom facilities in order to receive state 19655
assistance for the classroom facilities project, an amount 19656
equivalent to the specified amount of proceeds the school district 19657
board covenants and agrees with the commission to apply as 19658
referred to in division (A)(2) of this section; 19659

(D) Apply proceeds of either or both a school district income 19660
tax levied under Chapter 5748. of the Revised Code that may 19661
lawfully be used to pay the costs of a classroom facilities 19662
project or of a tax levied under section 5705.21 or 5705.218 of 19663
the Revised Code to the payment of debt charges on and financing 19664

costs related to securities issued under this section; 19665

(E) Issue securities to provide moneys to pay all or part of 19666
the district's portion of the basic project cost of its classroom 19667
facilities project in accordance with an agreement entered into 19668
under division (A) of this section. Securities issued under this 19669
section shall be Chapter 133. securities and may be issued as 19670
general obligation securities or issued in anticipation of a 19671
school district income tax or as property tax anticipation notes 19672
under section 133.24 of the Revised Code. The district board's 19673
resolution authorizing the issuance and sale of general obligation 19674
securities under this section shall conform to the applicable 19675
requirements of section 133.22 or 133.23 of the Revised Code. 19676
Securities issued under this section shall have principal payments 19677
during each year after the year of issuance over a period of not 19678
more than twenty-three years and, if so determined by the district 19679
board, during the year of issuance. Securities issued under this 19680
section shall not be included in the calculation of net 19681
indebtedness of the district under section 133.06 of the Revised 19682
Code, if the resolution of the district board authorizing their 19683
issuance and sale includes covenants to appropriate annually from 19684
lawfully available proceeds of a property tax levied under section 19685
5705.21 or 5705.218 of the Revised Code and no school district 19686
income tax levied under Chapter 5748. of the Revised Code and to 19687
continue to levy and collect the tax in amounts necessary to pay 19688
the debt charges on and financing costs related to the securities 19689
as they become due. No property tax levied under section 5705.21 19690
or 5705.218 of the Revised Code or of a school district income tax 19691
levied under Chapter 5748. of the Revised Code that is pledged, or 19692
that the school district board has covenanted to levy, collect, 19693
and appropriate annually, to pay the debt charges on and financing 19694
costs related to securities issued under this section shall be 19695
repealed while those securities are outstanding. If such a tax is 19696
reduced by the electors of the district or by the district board 19697

while those securities are outstanding, the school district board shall continue to levy and collect the tax under the authority of the original election authorizing the tax at a rate in each year that the board reasonably estimates will produce an amount in that year equal to the debt charges on the securities in that year.

No state moneys shall be released for a project to which this section applies until the proceeds of the tax securities issued under this section that are dedicated for the payment of the district portion of the basic project cost of its classroom facilities project are first deposited into the district's project construction fund.

Sec. 3318.34. The Ohio school facilities commission shall not release any state funds to a school district for a project under this chapter until the school district has complied with division (G) of section 3313.41 of the Revised Code.

Sec. 3 3318.364. The board of education of any school district ~~whose~~ the electors of which have approved a bond issue or tax levy for the construction of or additions or major repair to a classroom facility within ~~eighteen~~ twenty-four months prior to September 14, 2000, or that has spent other school district resources in an amount of not less than one million dollars for the acquisition of classroom facilities within twenty-four months prior to September 14, 2000, may apply all or a portion of the expenditures of the proceeds from such bond issue or tax levy, or the amount of other school district resources as described in this section, as local resources for ~~purposes~~ the purpose of the district's participation in the ~~School Building Assistance Expedited Local Partnership Program~~ school building assistance expedited local partnership program under section 3318.36 of the Revised Code. The Ohio ~~School Facilities Commission~~ school facilities commission, upon request of such a school district

board, shall conduct a district needs assessment under section 19729
3318.36 of the Revised Code and shall determine whether such 19730
project meets all or a portion of the district's assessed needs 19731
and whether the design of all or a portion of the project complies 19732
with design specifications of the ~~Commission~~ commission as 19733
required under division (B)(3) of section 3318.36 of the Revised 19734
Code. 19735

The ~~Commission~~ commission shall approve as local resources 19736
the district's expenditures for that portion of the project 19737
determined to meet the district's assessed needs and to comply 19738
with the ~~Commission's~~ commission's design specifications. 19739

Sec. 3318.37. (A)(1) As used in this section: 19740

~~(1)~~(a) "Low wealth school district" means a school district 19741
in the first through fiftieth percentiles as determined under 19742
section 3318.011 of the Revised Code. 19743

~~(2)~~(b) A "school district with an exceptional need for 19744
immediate classroom facilities assistance" means a low wealth 19745
school district with an exceptional need for new facilities in 19746
order to protect the health and safety of all or a portion of its 19747
students. ~~School~~ 19748

(2) School districts reasonably expected to be eligible for 19749
state assistance under sections 3318.01 to 3318.20 of the Revised 19750
Code within three fiscal years after the year of the application 19751
for assistance under this section ~~is being considered by the Ohio~~ 19752
~~school facilities commission, and school districts that~~ 19753
~~participate in the school building assistance expedited local~~ 19754
~~partnership program under section 3318.36 of the Revised Code~~ 19755
shall not be eligible for assistance under this section. 19756

(B)(1) There is hereby established the exceptional needs 19757
school facilities assistance program. Under the program, the Ohio 19758

school facilities commission may set aside funds from the moneys 19759
annually appropriated to it for classroom facilities assistance 19760
projects ~~up to twenty five per cent~~ for assistance to school 19761
districts with exceptional needs for immediate classroom 19762
facilities assistance. 19763

(2)(a) After consulting with education and construction 19764
experts, the commission shall adopt guidelines for identifying 19765
school districts with an exceptional need for immediate classroom 19766
facilities assistance. 19767

(b) The guidelines shall include application forms and 19768
instructions for school districts ~~that believe they have an~~ 19769
~~exceptional need for immediate classroom facilities to use in~~ 19770
applying for assistance under this section. 19771

(3) The commission shall evaluate the classroom facilities, 19772
and the need for replacement classroom facilities from the 19773
applications received under this section. The commission, 19774
utilizing the guidelines adopted under division (B)(2)(a) of this 19775
section, shall prioritize the school districts to be assessed. 19776

Notwithstanding section 3318.02 of the Revised Code, the 19777
commission may conduct on-site evaluation of the school districts 19778
prioritized under this section and approve and award funds until 19779
such time as all funds set aside under division (B)(1) of this 19780
section have been encumbered ~~under section 3318.04 of the Revised~~ 19781
~~Code. However, the commission need not conduct the evaluation of~~ 19782
facilities if the commission determines that a district's 19783
assessment conducted under section 3318.36 of the Revised Code is 19784
sufficient for purposes of this section. 19785

(4) Notwithstanding division (A) of section 3318.05 of the 19786
Revised Code, the school district's portion of the basic project 19787
cost under this section shall be the "required percentage of the 19788
basic project costs," as defined in division (K) of section 19789

3318.01 of the Revised Code. 19790

(5) Except as otherwise specified in this section, any 19791
project undertaken with assistance under this section shall comply 19792
with all provisions of sections 3318.01 to 3318.20 of the Revised 19793
Code. A school district may receive assistance under sections 19794
3318.01 to 3318.20 of the Revised Code for the remainder of the 19795
district's classroom facilities needs as assessed under this 19796
section when the district is eligible for such assistance pursuant 19797
to section 3318.02 of the Revised Code, but any classroom facility 19798
constructed with assistance under this section shall not be 19799
included in a district's project at that time unless the 19800
commission determines the district has experienced the increased 19801
enrollment specified in division (B)(1) of section 3318.04 of the 19802
Revised Code. 19803

(C) No school district shall receive assistance under this 19804
section for a classroom facility that has been included in the 19805
discrete part of the district's classroom facilities needs 19806
identified and addressed in the district's project pursuant to an 19807
agreement entered into under section 3318.36 of the Revised Code. 19808

Sec. 3318.41. (A)(1) The Ohio school facilities commission 19809
annually shall assess the classroom facilities needs of the number 19810
of joint vocational school districts that the commission 19811
reasonably expects to be able to provide assistance to in a fiscal 19812
year, based on the amount set aside for that fiscal year under 19813
division (B) of section 3318.40 of the Revised Code and the order 19814
of priority prescribed in division (B) of section 3318.42 of the 19815
Revised Code, except that in fiscal year 2004 the commission shall 19816
conduct at least the five assessments prescribed in division (E) 19817
of section 3318.40 of the Revised Code. 19818

Upon conducting an assessment of the classroom facilities 19819
needs of a school district, the commission shall make a 19820

determination of all of the following: 19821

(a) The number of classroom facilities to be included in a 19822
project, including classroom facilities ~~authorized by a bond issue~~ 19823
described in section 3318.033 of the Revised Code, and the basic 19824
project cost of acquiring the classroom facilities included in the 19825
project. The number of facilities and basic project cost shall be 19826
determined in accordance with the specifications adopted under 19827
section 3318.311 of the Revised Code except to the extent that 19828
compliance with such specifications is waived by the commission 19829
pursuant to the rule of the commission adopted under division (F) 19830
of section 3318.40 of the Revised Code. 19831

(b) The school district's portion of the basic project cost 19832
as determined under division (C) of section 3318.42 of the Revised 19833
Code; 19834

(c) The remaining portion of the basic project cost that 19835
shall be supplied by the state; 19836

(d) The amount of the state's portion of the basic project 19837
cost to be encumbered in accordance with section 3318.11 of the 19838
Revised Code in the current and subsequent fiscal bienniums from 19839
funds set aside under division (B) of section 3318.40 of the 19840
Revised Code. 19841

(2) Divisions (A), (C), and (D) of section 3318.03 of the 19842
Revised Code apply to any project under sections 3318.40 to 19843
3318.45 of the Revised Code. 19844

(B)(1) If the commission makes a determination under division 19845
(A) of this section in favor of the acquisition of classroom 19846
facilities for a project under sections 3318.40 to 3318.45 of the 19847
Revised Code, such project shall be conditionally approved. Such 19848
conditional approval shall be submitted to the controlling board 19849
for approval. The controlling board shall immediately approve or 19850
reject the commission's determination, conditional approval, the 19851

amount of the state's portion of the basic project cost, and the 19852
amount of the state's portion of the basic project cost to be 19853
encumbered in the current fiscal biennium. In the event of 19854
approval by the controlling board, the commission shall certify 19855
the conditional approval to the joint vocational school district 19856
board of education and shall encumber the approved funds for the 19857
current fiscal year. 19858

(2) No school district that receives assistance under 19859
sections 3318.40 to 3318.45 of the Revised Code shall have another 19860
such project conditionally approved until the expiration of twenty 19861
years after the school district's prior project was conditionally 19862
approved, unless the school district board demonstrates to the 19863
satisfaction of the commission that the school district has 19864
experienced since conditional approval of its prior project an 19865
exceptional increase in enrollment or program requirements 19866
significantly above the school district's design capacity under 19867
that prior project as determined by rule of the commission. Any 19868
rule adopted by the commission to implement this division shall be 19869
tailored to address the classroom facilities needs of joint 19870
vocational school districts. 19871

(C) In addition to generating the amount of the school 19872
district's portion of the basic project cost as determined under 19873
division (C) of section 3318.42 of the Revised Code, in order for 19874
a school district to receive assistance under sections 3318.40 to 19875
3318.45 of the Revised Code, the school district board shall set 19876
aside school district moneys for the maintenance of the classroom 19877
facilities included in the school district's project in the amount 19878
and manner prescribed in section 3318.43 of the Revised Code. 19879

(D)(1) The conditional approval for a project certified under 19880
division (B)(1) of this section shall lapse and the amount 19881
reserved and encumbered for such project shall be released unless 19882
both of the following conditions are satisfied: 19883

(a) Within one hundred twenty days following the date of certification of the conditional approval to the joint vocational school district board, the school district board accepts the conditional approval and certifies to the commission the school district board's plan to generate the school district's portion of the basic project cost, as determined under division (C) of section 3318.42 of the Revised Code, and to set aside moneys for maintenance of the classroom facilities acquired under the project, as prescribed in section 3318.43 of the Revised Code.

(b) Within one year following the date of certification of the conditional approval to the school district board, the electors of the school district vote favorably on any ballot measures proposed by the school district board to generate the school district's portion of the basic project cost.

(2) If the school district board or electors fail to satisfy the conditions prescribed in division (D)(1) of this section and the amount reserved and encumbered for the school district's project is released, the school district shall be given first priority over other joint vocational school districts for project funding under sections 3318.40 to 3318.45 of the Revised Code as such funds become available.

(E) If the conditions prescribed in division (D)(1) of this section are satisfied, the commission and the school district board shall enter into an agreement as prescribed in section 3318.08 of the Revised Code and shall proceed with the development of plans, cost estimates, designs, drawings, and specifications as prescribed in section 3318.091 of the Revised Code.

(F) Costs in excess of those approved by the commission under section 3318.091 of the Revised Code shall be payable only as provided in sections 3318.042 and 3318.083 of the Revised Code.

(G) Advertisement for bids and the award of contracts for

construction of any project under sections 3318.40 to 3318.45 of 19915
the Revised Code shall be conducted in accordance with section 19916
3318.10 of the Revised Code. 19917

(H) The state funds reserved and encumbered and the funds 19918
provided by the school district to pay the basic project cost of a 19919
project under sections 3318.40 to 3318.45 of the Revised Code 19920
shall be spent simultaneously in proportion to the state's and the 19921
school district's respective portions of that basic project cost. 19922

(I) Sections 3318.13, 3318.14, and 3318.16 of the Revised 19923
Code apply to projects under sections 3318.40 to 3318.45 of the 19924
Revised Code. 19925

Sec. 3319.01. Except in an island school district, where the 19926
superintendent of an educational service center otherwise may 19927
serve as superintendent of the district and except as otherwise 19928
provided for any cooperative education school district pursuant to 19929
division (B)(2) of section 3311.52 or division (B)(3) of section 19930
3311.521 of the Revised Code, the board of education in each 19931
school district and the governing board of each service center 19932
shall, at a regular or special meeting held not later than the 19933
first day of May of the calendar year in which the term of the 19934
superintendent expires, appoint a person possessed of the 19935
qualifications provided in this section to act as superintendent, 19936
for a term not longer than five years beginning the first day of 19937
August and ending on the thirty-first day of July. Such 19938
superintendent is, at the expiration of a current term of 19939
employment, deemed reemployed for a term of one year at the same 19940
salary plus any increments that may be authorized by the board, 19941
unless such board, on or before the first day of March of the year 19942
in which the contract of employment expires, either reemploys the 19943
superintendent for a succeeding term as provided in this section 19944
or gives to the superintendent written notice of its intention not 19945

to reemploy the superintendent. A superintendent may not be 19946
transferred to any other position during the term of the 19947
superintendent's employment or reemployment except by mutual 19948
agreement by the superintendent and the board. If a vacancy occurs 19949
in the office of superintendent, the board shall appoint a 19950
superintendent for a term not to exceed five years from the next 19951
preceding first day of August. 19952

~~Except as otherwise provided in this section, the employment 19953
or reemployment of a superintendent of a local school district 19954
shall be only upon the recommendation of the service center 19955
superintendent, except that a local board of education, by a 19956
three-fourths vote of its full membership, may, after considering 19957
two nominations for the position of local superintendent made by 19958
the service center superintendent, employ or reemploy a person not 19959
so nominated for such position. 19960~~

A board may at any regular or special meeting held during the 19961
period beginning on the first day of January of the calendar year 19962
immediately preceding the year the contract of employment of a 19963
superintendent expires and ending on the first day of March of the 19964
year it expires, reemploy such superintendent for a succeeding 19965
term for not longer than five years, beginning on the first day of 19966
August immediately following the expiration of the 19967
superintendent's current term of employment and ending on the 19968
thirty-first day of July of the year in which such succeeding term 19969
expires. No person shall be appointed to the office of 19970
superintendent of a city, or exempted village school district or a 19971
service center who does not hold a license designated for being a 19972
superintendent issued under section 3319.22 of the Revised Code, 19973
unless such person had been employed as a county, city, or 19974
exempted village superintendent prior to August 1, 1939. No person 19975
shall be appointed to the office of local superintendent who does 19976
not hold a license designated for being a superintendent issued 19977

under section 3319.22 of the Revised Code, unless such person held 19978
or was qualified to hold the position of executive head of a local 19979
school district on September 16, 1957. At the time of making such 19980
appointment or designation of term, such board shall fix the 19981
compensation of the superintendent, which may be increased or 19982
decreased during such term, provided such decrease is a part of a 19983
uniform plan affecting salaries of all employees of the district, 19984
and shall execute a written contract of employment with such 19985
superintendent. 19986

Each board shall adopt procedures for the evaluation of its 19987
superintendent and shall evaluate its superintendent in accordance 19988
with those procedures. An evaluation based upon such procedures 19989
shall be considered by the board in deciding whether to renew the 19990
superintendent's contract. The establishment of an evaluation 19991
procedure shall not create an expectancy of continued employment. 19992
Nothing in this section shall prevent a board from making the 19993
final determination regarding the renewal or failure to renew of a 19994
superintendent's contract. 19995

Termination of a superintendent's contract shall be pursuant 19996
to section 3319.16 of the Revised Code. 19997

A board may establish vacation leave for its superintendent. 19998
Upon the superintendent's separation from employment a board that 19999
has such leave may provide compensation at the superintendent's 20000
current rate of pay for all lawfully accrued and unused vacation 20001
leave to the superintendent's credit at the time of separation, 20002
not to exceed the amount accrued within three years before the 20003
date of separation. In case of the death of a superintendent, such 20004
unused vacation leave as the board would have paid to this 20005
superintendent upon separation shall be paid in accordance with 20006
section 2113.04 of the Revised Code, or to the superintendent's 20007
estate. 20008

The superintendent shall be the executive officer for the 20009

board. ~~Except as otherwise provided in this section for local~~ 20010
~~school districts, the~~ The superintendent shall direct and assign 20011
teachers and other employees of the district or service center, 20012
except as provided in section 3319.04 of the Revised Code; assign 20013
the pupils to the proper schools and grades, provided that the 20014
assignment of a pupil to a school outside of the pupil's district 20015
of residence is approved by the board of the district of residence 20016
of such pupil; and perform such other duties as the board 20017
determines. ~~The service center superintendent shall exercise the~~ 20018
~~responsibilities of this section with regard to the assignment of~~ 20019
~~pupils and teachers for local school districts under the~~ 20020
~~supervision of the service center, except that the board of~~ 20021
~~education of a local school district and the governing board of~~ 20022
~~the educational service center of which the local district is a~~ 20023
~~part may enter into an agreement requiring the local~~ 20024
~~superintendent, instead of the superintendent of the educational~~ 20025
~~service center, to exercise the responsibilities of this section~~ 20026
~~with regard to the assignment of pupils and teachers for the local~~ 20027
~~school district.~~ 20028

The board of education of any school district may contract 20029
with the governing board of the educational service center from 20030
which it otherwise receives services to conduct searches and 20031
recruitment of candidates for the superintendent position 20032
authorized under this section. 20033

Sec. 3319.02. (A)(1) As used in this section, "other 20034
administrator" means ~~either~~ any of the following: 20035

(a) Except as provided in division (A)(2) of this section, 20036
any employee in a position for which a board of education requires 20037
a license designated by rule of the department of education for 20038
being an administrator issued under section 3319.22 of the Revised 20039
Code, including a professional pupil services employee or 20040

administrative specialist or an equivalent of either one who is 20041
not employed as a school counselor and spends less than fifty per 20042
cent of the time employed teaching or working with students; 20043

(b) Any nonlicensed employee whose job duties enable such 20044
employee to be considered as either a "supervisor" or a 20045
"management level employee," as defined in section 4117.01 of the 20046
Revised Code; 20047

(c) A business manager appointed under section 3319.03 of the 20048
Revised Code. 20049

(2) As used in this section, "other administrator" does not 20050
include a superintendent, assistant superintendent, principal, or 20051
assistant principal. 20052

(B) The board of education of each school district and the 20053
governing board of an educational service center may appoint one 20054
or more assistant superintendents and such other administrators as 20055
are necessary. An assistant educational service center 20056
superintendent or service center supervisor employed on a 20057
part-time basis may also be employed by a local board as a 20058
teacher. The board of each city, exempted village, and local 20059
school district shall employ principals for all high schools and 20060
for such other schools as the board designates, and those boards 20061
may appoint assistant principals for any school that they 20062
designate. 20063

(C) In educational service centers and in city ~~and~~, exempted 20064
village, and local school districts, assistant superintendents, 20065
principals, assistant principals, and other administrators shall 20066
only be employed or reemployed in accordance with nominations of 20067
the superintendent, except that a ~~city or exempted village~~ board 20068
of education of a school district or the governing board of a 20069
service center, by a three-fourths vote of its full membership, 20070
may reemploy any assistant superintendent, principal, assistant 20071

principal, or other administrator whom the superintendent refuses 20072
to nominate. ~~In local school districts, assistant superintendents,~~ 20073
~~principals, assistant principals, and other administrators shall~~ 20074
~~only be employed or reemployed in accordance with nominations of~~ 20075
~~the superintendent of the service center of which the local~~ 20076
~~district is a part, except that a local board of education, by a~~ 20077
~~three fourths vote of its full membership, may reemploy any~~ 20078
~~assistant superintendent, principal, assistant principal, or other~~ 20079
~~administrator whom such superintendent refuses to nominate.~~ 20080

The board of education or governing board shall execute a 20081
written contract of employment with each assistant superintendent, 20082
principal, assistant principal, and other administrator it employs 20083
or reemploys. The term of such contract shall not exceed three 20084
years except that in the case of a person who has been employed as 20085
an assistant superintendent, principal, assistant principal, or 20086
other administrator in the district or center for three years or 20087
more, the term of the contract shall be for not more than five 20088
years and, unless the superintendent of the district recommends 20089
otherwise, not less than two years. If the superintendent so 20090
recommends, the term of the contract of a person who has been 20091
employed by the district or service center as an assistant 20092
superintendent, principal, assistant principal, or other 20093
administrator for three years or more may be one year, but all 20094
subsequent contracts granted such person shall be for a term of 20095
not less than two years and not more than five years. When a 20096
teacher with continuing service status becomes an assistant 20097
superintendent, principal, assistant principal, or other 20098
administrator with the district or service center with which the 20099
teacher holds continuing service status, the teacher retains such 20100
status in the teacher's nonadministrative position as provided in 20101
sections 3319.08 and 3319.09 of the Revised Code. 20102

A board of education or governing board may reemploy an 20103

assistant superintendent, principal, assistant principal, or other 20104
administrator at any regular or special meeting held during the 20105
period beginning on the first day of January of the calendar year 20106
immediately preceding the year of expiration of the employment 20107
contract and ending on the last day of March of the year the 20108
employment contract expires. 20109

Except by mutual agreement of the parties thereto, no 20110
assistant superintendent, principal, assistant principal, or other 20111
administrator shall be transferred during the life of a contract 20112
to a position of lesser responsibility. No contract may be 20113
terminated by a board except pursuant to section 3319.16 of the 20114
Revised Code. No contract may be suspended except pursuant to 20115
section 3319.17 or 3319.171 of the Revised Code. The salaries and 20116
compensation prescribed by such contracts shall not be reduced by 20117
a board unless such reduction is a part of a uniform plan 20118
affecting the entire district or center. The contract shall 20119
specify the employee's administrative position and duties as 20120
included in the job description adopted under division (D) of this 20121
section, the salary and other compensation to be paid for 20122
performance of duties, the number of days to be worked, the number 20123
of days of vacation leave, if any, and any paid holidays in the 20124
contractual year. 20125

An assistant superintendent, principal, assistant principal, 20126
or other administrator is, at the expiration of the current term 20127
of employment, deemed reemployed at the same salary plus any 20128
increments that may be authorized by the board, unless such 20129
employee notifies the board in writing to the contrary on or 20130
before the first day of June, or unless such board, on or before 20131
the last day of March of the year in which the contract of 20132
employment expires, either reemploys such employee for a 20133
succeeding term or gives written notice of its intention not to 20134
reemploy the employee. The term of reemployment of a person 20135

reemployed under this paragraph shall be one year, except that if 20136
such person has been employed by the school district or service 20137
center as an assistant superintendent, principal, assistant 20138
principal, or other administrator for three years or more, the 20139
term of reemployment shall be two years. 20140

(D)(1) Each board shall adopt procedures for the evaluation 20141
of all assistant superintendents, principals, assistant 20142
principals, and other administrators and shall evaluate such 20143
employees in accordance with those procedures. The evaluation 20144
based upon such procedures shall be considered by the board in 20145
deciding whether to renew the contract of employment of an 20146
assistant superintendent, principal, assistant principal, or other 20147
administrator. 20148

(2) The evaluation shall measure each assistant 20149
superintendent's, principal's, assistant principal's, and other 20150
administrator's effectiveness in performing the duties included in 20151
the job description and the evaluation procedures shall provide 20152
for, but not be limited to, the following: 20153

(a) Each assistant superintendent, principal, assistant 20154
principal, and other administrator shall be evaluated annually 20155
through a written evaluation process. 20156

(b) The evaluation shall be conducted by the superintendent 20157
or designee. 20158

(c) In order to provide time to show progress in correcting 20159
the deficiencies identified in the evaluation process, the 20160
evaluation process shall be completed as follows: 20161

(i) In any school year that the employee's contract of 20162
employment is not due to expire, at least one evaluation shall be 20163
completed in that year. A written copy of the evaluation shall be 20164
provided to the employee no later than the end of the employee's 20165
contract year as defined by the employee's annual salary notice. 20166

(ii) In any school year that the employee's contract of employment is due to expire, at least a preliminary evaluation and at least a final evaluation shall be completed in that year. A written copy of the preliminary evaluation shall be provided to the employee at least sixty days prior to any action by the board on the employee's contract of employment. The final evaluation shall indicate the superintendent's intended recommendation to the board regarding a contract of employment for the employee. A written copy of the evaluation shall be provided to the employee at least five days prior to the board's acting to renew or not renew the contract.

(3) Termination of an assistant superintendent, principal, assistant principal, or other administrator's contract shall be pursuant to section 3319.16 of the Revised Code. Suspension of any such employee shall be pursuant to section 3319.17 or 3319.171 of the Revised Code.

(4) Before taking action to renew or nonrenew the contract of an assistant superintendent, principal, assistant principal, or other administrator under this section and prior to the last day of March of the year in which such employee's contract expires, the board shall notify each such employee of the date that the contract expires and that the employee may request a meeting with the board. Upon request by such an employee, the board shall grant the employee a meeting in executive session. In that meeting, the board shall discuss its reasons for considering renewal or nonrenewal of the contract. The employee shall be permitted to have a representative, chosen by the employee, present at the meeting.

(5) The establishment of an evaluation procedure shall not create an expectancy of continued employment. Nothing in division (D) of this section shall prevent a board from making the final determination regarding the renewal or nonrenewal of the contract

of any assistant superintendent, principal, assistant principal, 20199
or other administrator. However, if a board fails to provide 20200
evaluations pursuant to division (D)(2)(c)(i) or (ii) of this 20201
section, or if the board fails to provide at the request of the 20202
employee a meeting as prescribed in division (D)(4) of this 20203
section, the employee automatically shall be reemployed at the 20204
same salary plus any increments that may be authorized by the 20205
board for a period of one year, except that if the employee has 20206
been employed by the district or service center as an assistant 20207
superintendent, principal, assistant principal, or other 20208
administrator for three years or more, the period of reemployment 20209
shall be for two years. 20210

(E) On nomination of the superintendent of a service center a 20211
governing board may employ supervisors who shall be employed under 20212
written contracts of employment for terms not to exceed five years 20213
each. Such contracts may be terminated by a governing board 20214
pursuant to section 3319.16 of the Revised Code. Any supervisor 20215
employed pursuant to this division may terminate the contract of 20216
employment at the end of any school year after giving the board at 20217
least thirty days' written notice prior to such termination. On 20218
the recommendation of the superintendent the contract or contracts 20219
of any supervisor employed pursuant to this division may be 20220
suspended for the remainder of the term of any such contract 20221
pursuant to section 3319.17 or 3319.171 of the Revised Code. 20222

(F) A board may establish vacation leave for any individuals 20223
employed under this section. Upon such an individual's separation 20224
from employment, a board that has such leave may compensate such 20225
an individual at the individual's current rate of pay for all 20226
lawfully accrued and unused vacation leave credited at the time of 20227
separation, not to exceed the amount accrued within three years 20228
before the date of separation. In case of the death of an 20229
individual employed under this section, such unused vacation leave 20230

as the board would have paid to the individual upon separation 20231
under this section shall be paid in accordance with section 20232
2113.04 of the Revised Code, or to the estate. 20233

(G) The board of education of any school district may 20234
contract with the governing board of the educational service 20235
center from which it otherwise receives services to conduct 20236
searches and recruitment of candidates for assistant 20237
superintendent, principal, assistant principal, and other 20238
administrator positions authorized under this section. 20239

Sec. 3319.03. The board of education of each city, exempted 20240
village, and local school district may create the position of 20241
business manager. The board shall ~~elect~~ appoint such business 20242
manager who shall serve ~~for a term not to exceed four years unless~~ 20243
~~earlier removed for cause pursuant to a contract in accordance~~ 20244
~~with section 3319.02 of the Revised Code. A vacancy in this office~~ 20245
~~shall be filled only for the unexpired term thereof.~~ In the 20246
discharge of all ~~his~~ official duties, the business manager may be 20247
directly responsible to the board, or to the superintendent of 20248
schools, as the board directs at the time of ~~election~~ appointment 20249
to the position. Where such business manager is responsible to the 20250
superintendent ~~he~~ the business manager shall be appointed by the 20251
superintendent and confirmed by the board. 20252

No board of education shall ~~elect~~ appoint or confirm as 20253
business manager any person who does not hold a valid business 20254
manager's license issued under section 3301.074 of the Revised 20255
Code. If the business manager fails to maintain a valid license, 20256
~~he~~ the business manager shall be removed by the board. 20257

Sec. 3319.07. (A) The board of education of each city, 20258
exempted village, ~~and~~ local, and joint vocational school district 20259
shall employ the teachers of the public schools of their 20260

respective districts. 20261

The governing board of each educational service center may 20262
employ special instruction teachers, special education teachers, 20263
and teachers of academic courses in which there are too few 20264
students in each of the constituent local school districts or in 20265
city or exempted village school districts entering into agreements 20266
pursuant to section 3313.843 of the Revised Code to warrant each 20267
district's employing teachers for those courses. 20268

When any board makes appointments of teachers, the teachers 20269
in the employ of the board shall be considered before new teachers 20270
are chosen in their stead. In ~~city, exempted village, and joint~~ 20271
~~vocational~~ all school districts and in service centers no teacher 20272
shall be employed unless such person is nominated by the 20273
superintendent of such district or center. Such board, by a 20274
three-fourths vote of its full membership, may re-employ any 20275
teacher whom the superintendent refuses to appoint. ~~In local~~ 20276
~~school districts, no teacher shall be employed, except as provided~~ 20277
~~in division (B) of this section, unless nominated by the~~ 20278
~~superintendent of the service center of which such local school~~ 20279
~~district is a part; by a majority vote of the full membership of~~ 20280
~~such board, the board of education of any local school district~~ 20281
~~may, after considering two nominations for any position made by~~ 20282
~~the service center superintendent, reemploy a person not so~~ 20283
~~nominated for such position.~~ 20284

(B) The board of education of ~~a local~~ any school district ~~and~~ 20285
~~the board of education of the county school district of which the~~ 20286
~~local district is a part may enter into an agreement authorizing~~ 20287
~~the superintendent of the local district, in lieu of the~~ 20288
~~superintendent of the county district, to make nominations under~~ 20289
~~this section for the employment of teachers in the local district.~~ 20290
~~While such an agreement is in effect the board of education of the~~ 20291
~~local district shall not employ any teacher unless the person is~~ 20292

~~nominated by the superintendent of the district except that, by a~~ 20293
~~three fourths vote of its full membership, it may re-employ any~~ 20294
~~teacher whom the superintendent refuses to nominate~~ may contract 20295
with the governing board of the educational service center from 20296
which it otherwise receives services to conduct searches and 20297
recruitment of candidates for teacher positions. 20298

Sec. 3319.19. (A) Except as provided in division (D) of this 20299
section or division (A)(2) of section 3313.37 of the Revised Code, 20300
upon request, the board of county commissioners shall provide and 20301
equip offices in the county for the use of the superintendent of 20302
an educational service center, and shall provide heat, light, 20303
water, and janitorial services for such offices. Such offices 20304
shall be the permanent headquarters of the superintendent and 20305
shall be used by the governing board of the service center when it 20306
is in session. Except as provided in division (B) of this section, 20307
such offices shall be located in the county seat or, upon the 20308
approval of the governing board, may be located outside of the 20309
county seat. 20310

(B) In the case of a service center formed under section 20311
3311.053 of the Revised Code, the governing board shall designate 20312
the site of its offices. Except as provided in division (D) of 20313
this section or division (A)(2) of section 3313.37 of the Revised 20314
Code, the board of county commissioners of the county in which the 20315
designated site is located shall provide and equip the offices as 20316
under division (A) of this section, but the costs of such offices 20317
and equipment shall be apportioned among the boards of county 20318
commissioners of all counties having any territory in the area 20319
under the control of the governing board, according to the 20320
proportion of local school district pupils under the supervision 20321
of such board residing in the respective counties. Where there is 20322
a dispute as to the amount any board of county commissioners is 20323
required to pay, the probate judge of the county in which the 20324

greatest number of pupils under the supervision of the governing 20325
board reside shall apportion such costs among the boards of county 20326
commissioners and notify each such board of its share of the 20327
costs. 20328

(C) ~~Not~~ As used in division (C) of this section, in the case 20329
of a building, facility, or office space that a board of county 20330
commissioners leases or rents, "actual cost per square foot" means 20331
all cost on a per square foot basis incurred by the board under 20332
the lease or rental agreement. In the case of a building, 20333
facility, or office space that the board owns in fee simple, 20334
"actual cost per square foot" means the fair rental value on a per 20335
square foot basis of the building, facility, or office space 20336
either as compared to a similarly situated building, facility, or 20337
office space in the general vicinity or as calculated under a 20338
formula that accounts for depreciation, amortization of 20339
improvements, and other reasonable factors, including, but not 20340
limited to, parking space and other amenities. 20341

Not later than the thirty-first day of March of 2002, 2003, 20342
2004, and 2005 a board of county commissioners required to provide 20343
or equip offices pursuant to division (A) or (B) of this section 20344
shall make a written estimate of the total cost it will incur for 20345
the ensuing fiscal year to provide and equip the offices and to 20346
provide heat, light, water, and janitorial services for such 20347
offices. The total estimate of cost shall include: 20348

(1) The total square feet of space to be utilized by the 20349
educational service center; 20350

(2) The total square feet of any common areas that should be 20351
reasonably allocated to the center and the methodology for making 20352
this allocation; 20353

(3) The actual cost per square foot for both the space 20354
utilized by and the common area allocated to the center; 20355

(4) An explanation of the methodology used to determine the 20356
actual cost per square foot ~~cost~~; 20357

(5) The estimated cost of providing heat, light, and water, 20358
including an explanation of how these costs were determined; 20359

(6) The estimated cost of providing janitorial services 20360
including an explanation of the methodology used to determine this 20361
cost; 20362

(7) Any other estimated costs that the board anticipates it 20363
will occur and a detailed explanation of the costs and the 20364
rationale used to determine such costs. 20365

A copy of the total estimate of costs under this division 20366
shall be sent to the superintendent of the educational service 20367
center not later than the fifth day of April. The superintendent 20368
shall review the total estimate and shall notify the board of 20369
county commissioners not later than twenty days after receipt of 20370
the estimate of either agreement with the estimate or any specific 20371
objections to the estimates and the reasons for the objections. If 20372
the superintendent agrees with the estimate, it shall become the 20373
final total estimate of cost. Failure of the superintendent to 20374
make objections to the estimate by the twentieth day after receipt 20375
of it shall be deemed to mean that the superintendent is in 20376
agreement with the estimate. 20377

If the superintendent provides specific objections to the 20378
board of county commissioners, the board shall review the 20379
objections and may modify the original estimate and shall send a 20380
revised total estimate to the superintendent within ten days after 20381
the receipt of the superintendent's objections. The superintendent 20382
shall respond to the revised estimate within ten days after its 20383
receipt. If the superintendent agrees with it, it shall become the 20384
final total estimated cost. If the superintendent fails to respond 20385
within the required time, the superintendent shall be deemed to 20386

have agreed with the revised estimate. If the superintendent 20387
disagrees with the revised estimate, the superintendent shall send 20388
specific objections to the county commissioners. 20389

If a superintendent has sent specific objections to the 20390
revised estimate within the required time, the probate judge of 20391
the county which has the greatest number of resident local school 20392
district pupils under the supervision of the educational service 20393
center shall determine the final estimated cost and certify this 20394
amount to the superintendent and the board of county commissioners 20395
prior to the first day of July. 20396

(D)(1) A board of county commissioners shall be responsible 20397
for the following percentages of the final total estimated cost 20398
established by division (C) of this section: 20399

(a) Eighty per cent for fiscal year 2003; 20400

(b) Sixty per cent for fiscal year 2004; 20401

(c) Forty per cent for fiscal year 2005; 20402

(d) Twenty per cent for fiscal year 2006. 20403

In fiscal years 2003, 2004, 2005, and 2006 the educational 20404
service center shall be responsible for the remainder of any costs 20405
in excess of the amounts specified in division (D)(1)(a), (b), ~~or~~ 20406
(c), or (d) of this section, as applicable, associated with the 20407
provision and equipment of offices for the educational service 20408
center and for provision of heat, light, water, and janitorial 20409
services for such offices, including any unanticipated or 20410
unexpected increases in the costs beyond the final estimated cost 20411
amount. 20412

Beginning in fiscal year 2007, no board of county 20413
commissioners shall have any obligation to provide and equip 20414
offices for an educational service center or to provide heat, 20415
light, water, or janitorial services for such offices. 20416

(2) Nothing in this section shall prohibit the board of county commissioners and the governing board of an educational service center from entering into a contract for providing and equipping offices for the use of an educational service center and for providing heat, light, water, and janitorial services for such offices. The term of any such contract shall not exceed a period of four years and may be renewed for additional periods not to exceed four years. Any such contract shall supersede the provisions of division (D)(1) of this section and no educational service center may be charged, at any time, any additional amount for the county's provision of an office and equipment, heat, light, water, and janitorial services beyond the amount specified in such contract.

(3) No contract entered into under division (D)(2) of this section in any year prior to fiscal year 2007 between an educational service center formed under section 3311.053 of the Revised Code and the board of county commissioners required to provide and equip its office pursuant to division (B) of this section shall take effect unless the boards of county commissioners of all other counties required to participate in the funding for such offices pursuant to division (B) of this section adopt resolutions approving the contract.

Sec. 3319.22. (A) The state board of education shall adopt rules establishing the standards and requirements for obtaining temporary, associate, provisional, and professional educator licenses of any categories, types, and levels the board elects to provide. However, no educator license shall be required for teaching children two years old or younger.

(B) Any rules the state board of education adopts, amends, or rescinds for educator licenses under this section, division (D) of section 3301.07 of the Revised Code, or any other law shall be

adopted, amended, or rescinded under Chapter 119. of the Revised Code except as follows:

(1) Notwithstanding division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code, the effective date of any rules, or amendment or rescission of any rules, shall not be as prescribed in division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code. Instead, the effective date shall be the date prescribed by section 3319.23 of the Revised Code.

(2) Notwithstanding the authority to adopt, amend, or rescind emergency rules in division (F) of section 119.03 of the Revised Code, this authority shall not apply to the state board of education with regard to rules for educator licenses.

(C)(1) The rules adopted under this section establishing standards requiring additional coursework for the renewal of any educator license shall require a school district and a chartered nonpublic school to establish local professional development committees. In a nonpublic school, the chief administrative officer shall establish the committees in any manner acceptable to such officer. The committees established under this division shall determine whether coursework that a district or chartered nonpublic school teacher proposes to complete meets the requirement of the rules. The rules shall establish a procedure by which a teacher may appeal the decision of a local professional development committee.

(2) In any school district in which there is no exclusive representative established under Chapter 4117. of the Revised Code, the professional development committees shall be established as described in division (C)(2) of this section.

Not later than the effective date of the rules adopted under this section, the board of education of each school district shall

establish the structure for one or more local professional 20479
development committees to be operated by such school district. The 20480
committee structure so established by a district board shall 20481
remain in effect unless within thirty days prior to an anniversary 20482
of the date upon which the current committee structure was 20483
established, the board provides notice to all affected district 20484
employees that the committee structure is to be modified. 20485
Professional development committees may have a district-level or 20486
building-level scope of operations, and may be established with 20487
regard to particular grade or age levels for which an educator 20488
license is designated. 20489

Each professional development committee shall consist of at 20490
least three classroom teachers employed by the district, one 20491
principal employed by the district, and one other employee of the 20492
district appointed by the district superintendent. For committees 20493
with a building-level scope, the teacher and principal members 20494
shall be assigned to that building, and the teacher members shall 20495
be elected by majority vote of the classroom teachers assigned to 20496
that building. For committees with a district-level scope, the 20497
teacher members shall be elected by majority vote of the classroom 20498
teachers of the district, and the principal member shall be 20499
elected by a majority vote of the principals of the district, 20500
unless there are two or fewer principals employed by the district, 20501
in which case the one or two principals employed shall serve on 20502
the committee. If a committee has a particular grade or age level 20503
scope, the teacher members shall be licensed to teach such grade 20504
or age levels, and shall be elected by majority vote of the 20505
classroom teachers holding such a license and the principal shall 20506
be elected by all principals serving in buildings where any such 20507
teachers serve. The district superintendent shall appoint a 20508
replacement to fill any vacancy that occurs on a professional 20509
development committee, except in the case of vacancies among the 20510
elected classroom teacher members, which shall be filled by vote 20511

of the remaining members of the committee so selected. 20512

Terms of office on professional development committees shall 20513
be prescribed by the district board establishing the committees. 20514
The conduct of elections for members of professional development 20515
committees shall be prescribed by the district board establishing 20516
the committees. A professional development committee may include 20517
additional members, except that the majority of members on each 20518
such committee shall be classroom teachers employed by the 20519
district. Any member appointed to fill a vacancy occurring prior 20520
to the expiration date of the term for which a predecessor was 20521
appointed shall hold office as a member for the remainder of that 20522
term. 20523

The initial meeting of any professional development 20524
committee, upon election and appointment of all committee members, 20525
shall be called by a member designated by the district 20526
superintendent. At this initial meeting, the committee shall 20527
select a chairperson and such other officers the committee deems 20528
necessary, and shall adopt rules for the conduct of its meetings. 20529
Thereafter, the committee shall meet at the call of the 20530
chairperson or upon the filing of a petition with the district 20531
superintendent signed by a majority of the committee members 20532
calling for the committee to meet. 20533

(3) In the case of a school district in which an exclusive 20534
representative has been established pursuant to Chapter 4117. of 20535
the Revised Code, professional development committees shall be 20536
established in accordance with any collective bargaining agreement 20537
in effect in the district that includes provisions for such 20538
committees. 20539

If the collective bargaining agreement does not specify a 20540
different method for the selection of teacher members of the 20541
committees, the exclusive representative of the district's 20542
teachers shall select the teacher members. 20543

If the collective bargaining agreement does not specify a 20544
different structure for the committees, the board of education of 20545
the school district shall establish the structure, including the 20546
number of committees and the number of teacher and administrative 20547
members on each committee; the specific administrative members to 20548
be part of each committee; whether the scope of the committees 20549
will be district levels, building levels, or by type of grade or 20550
age levels for which educator licenses are designated; the lengths 20551
of terms for members; the manner of filling vacancies on the 20552
committees; and the frequency and time and place of meetings. 20553
However, in all cases, except as provided in division (C)(4) of 20554
this section, there shall be a majority of teacher members of any 20555
professional development committee, there shall be at least five 20556
total members of any professional development committee, and the 20557
exclusive representative shall designate replacement members in 20558
the case of vacancies among teacher members, unless the collective 20559
bargaining agreement specifies a different method of selecting 20560
such replacements. 20561

(4) Whenever an administrator's coursework plan is being 20562
discussed or voted upon, the local professional development 20563
committee shall, at the request of one of its administrative 20564
members, cause a majority of the committee to consist of 20565
administrative members by reducing the number of teacher members 20566
voting on the plan. 20567

(D)(1) The department of education, educational service 20568
centers, county boards of mental retardation and developmental 20569
disabilities, ~~regional professional development centers~~, special 20570
education regional resource centers, college and university 20571
departments of education, head start programs, the Ohio SchoolNet 20572
commission, and the Ohio education computer network may establish 20573
local professional development committees to determine whether the 20574
coursework proposed by their employees who are licensed or 20575

certificated under this section or section 3319.222 of the Revised Code meet the requirements of the rules adopted under this section. They may establish local professional development committees on their own or in collaboration with a school district or other agency having authority to establish them.

Local professional development committees established by county boards of mental retardation and developmental disabilities shall be structured in a manner comparable to the structures prescribed for school districts in divisions (C)(2) and (3) of this section, as shall the committees established by any other entity specified in division (D)(1) of this section that provides educational services by employing or contracting for services of classroom teachers licensed or certificated under this section or section 3319.222 of the Revised Code. All other entities specified in division (D)(1) of this section shall structure their committees in accordance with guidelines which shall be issued by the state board.

(2) Any public agency that is not specified in division (D)(1) of this section but provides educational services and employs or contracts for services of classroom teachers licensed or certificated under this section or section 3319.222 of the Revised Code may establish a local professional development committee, subject to the approval of the department of education. The committee shall be structured in accordance with guidelines issued by the state board.

Sec. 3319.227. Notwithstanding any provision to the contrary in this chapter or in any educator licensing rule adopted by the state board of education under authority granted under this chapter, any individual who holds an educator license issued under section 3319.22 of the Revised Code or a teacher's certificate issued under former section 3319.22 of the Revised Code that has

continuing effect under section 3319.222 of the Revised Code may 20607
be employed to teach for up to two school years in a grade level 20608
or in a subject or teaching area for which the individual's 20609
license or certificate is not valid, as long as the individual 20610
agrees that during that time the individual will enroll in, 20611
attend, and complete coursework required by rule of the state 20612
board for licensure to teach in that grade level or in that 20613
subject or teaching area. The necessary coursework may be 20614
completed through classes developed and offered by regional 20615
professional development providers, such as special education 20616
regional resource centers, ~~regional professional development~~ 20617
~~centers~~, educational service centers, local education agencies, 20618
professional organizations, and institutions of higher education, 20619
provided the coursework is taken for credit in collaboration with 20620
a college or university that has a teacher education program 20621
approved by the state board. No person shall teach in a grade 20622
level or subject or teaching area under this section beyond two 20623
years until the person has completed all coursework and tests 20624
prescribed by the state board for licensure in that grade level or 20625
subject or teaching area. 20626

Sec. 3319.302. It is the intent of the general assembly that 20627
the state board of education shall administer this section without 20628
adopting any rules for its implementation. 20629

Unless the provisions of division (B) or (C) of section 20630
3319.31 of the Revised Code apply to an applicant, the state board 20631
of education shall issue a one-year conditional teaching permit 20632
for teaching in grades seven to twelve to any applicant who meets 20633
the following conditions: 20634

(A) Holds a bachelor's degree; 20635

(B) Has successfully completed a basic skills test as 20636
prescribed by the state board; 20637

(C) Has completed either as part of the applicant's degree 20638
program or separate from it the equivalent of at least fifteen 20639
semester hours of coursework in the teaching area or subject area 20640
in which licensure under this section is sought; 20641

(D) Has completed the equivalent of a total of six semester 20642
hours of additional coursework within the past five years with a 20643
grade point average of at least 2.5 out of 4.0, or its equivalent, 20644
in the areas of the teaching or subject area described in division 20645
(C) of this section, characteristics of student learning, 20646
diversity of learners, planning for instruction, instruction 20647
strategies, learning environments, communication, assessment, or 20648
student support and that coursework has been approved by the 20649
school district, community school, chartered nonpublic school, or 20650
nonprofit or for-profit entity operating an alternative school 20651
under section 3313.533 of the Revised Code that will employ the 20652
applicant. The coursework may have been completed through classes 20653
developed and offered by regional professional development 20654
providers, such as special education regional resource centers, 20655
~~regional professional development centers~~, educational service 20656
centers, local educational agencies, professional organizations, 20657
and institutions of higher education, provided the coursework is 20658
taken for credit in collaboration with a college or university 20659
that has a teacher education program approved by the state board. 20660

(E) The applicant has entered into a written agreement with 20661
the school district; community school; chartered nonpublic school; 20662
or nonprofit or for profit entity operating an alternative school 20663
under section 3313.533 of the Revised Code that will employ the 20664
applicant and the department of education under which the 20665
district, school, or entity will provide for the applicant a 20666
structured mentoring program in the areas listed in division (D) 20667
of this section that is aligned with the performance expectations 20668
prescribed by state board rule for entry-year teachers. 20669

(F) The applicant agrees to complete while employed under the one-year teaching permit the equivalent of an additional three semester hours of coursework in the teaching area or subject area in which the individual is teaching and for which the individual will seek an alternative educator license pursuant to division (G) of this section. The individual's mentor prescribed in division (E) of this section shall assist the individual in selecting coursework to satisfy the requirement prescribed in this division. The coursework may be completed through classes offered by regional professional development providers, such as special education regional resource centers, ~~regional professional development centers~~, educational service centers, local educational agencies, professional organizations, and institutions of higher education, if the coursework is taken for credit in collaboration with a college or university that has a teacher education program approved by the state board.

(G) The applicant agrees to seek at the conclusion of the year in which the individual is employed under the one-year teaching permit issued under this section an alternative educator license issued under section 3319.26 of the Revised Code in the teaching area or subject area in which the individual has been teaching and plans to continue to teach. The applicant shall not be reemployed by the school district; community school; chartered nonpublic school; or nonprofit or for profit entity operating an alternative school under section 3313.533 of the Revised Code or be employed by another such district, school, or entity unless that alternative educator license is issued to the applicant prior to the beginning of the next school year.

(H) The applicant pays the fee established under section 3319.51 of the Revised Code.

Sec. 3319.33. On or before the first day of August in each

year, the board of education of each city ~~and~~, exempted village,
and local school district shall report to the state board of
education, ~~and the board of each local school district shall~~
~~report to the superintendent of the educational service center,~~
the school statistics of its district. Such report shall be made
on forms furnished by the state board of education and shall
contain such information as the state board of education requires.
The report shall also set forth with respect to each civil
proceeding in which the board of education is a defendant and each
civil proceeding in which the board of education is a party and is
not a defendant and in which one of the other parties is a board
of education in this state or an officer, board, or official of
this state:

(A) The nature of the proceeding;

(B) The capacity in which the board is a party to the
proceeding;

(C) The total expenses incurred by the board with respect to
the proceeding;

(D) The total expenses incurred by the board with respect to
the proceeding during the reporting period.

Divisions (A) to (D) of this section do not apply to any
proceeding for which no expenses have been incurred during the
reporting period.

The board of education of each city ~~and~~, exempted village,
and local school district may prepare and publish annually a
report of the condition and administration of the schools under
its supervision which shall include therein an exhibit of the
financial affairs of the district and the information required in
divisions (A) to (D) of this section. Such annual report shall be
for a full year.

Sec. 3319.36. (A) No treasurer of a board of education or 20731
educational service center shall draw a check for the payment of a 20732
teacher for services until the teacher files with the treasurer 20733
both of the following: 20734

(1) Such reports as are required by the state board of 20735
education, the school district board of education, or the 20736
superintendent of schools; 20737

(2) Except for a teacher who is engaged pursuant to section 20738
3319.301 of the Revised Code ~~and except as provided under division~~ 20739
~~(B) of this section,~~ a written statement from the city ~~or,~~ 20740
exempted village, or local school district superintendent or the 20741
educational service center superintendent that the teacher has 20742
filed with the treasurer a legal educator license or internship 20743
certificate, or true copy of it, to teach the subjects or grades 20744
taught, with the dates of its validity. The state board of 20745
education shall prescribe the record and administration for such 20746
filing of educator licenses and internship certificates in 20747
educational service centers. 20748

~~(B) If the board of education of a local school district and 20749
the governing board of the educational service center of which the 20750
local district is a part have entered into an agreement under 20751
division (B) of section 3319.07 of the Revised Code, the agreement 20752
may also require the superintendent of the local school district, 20753
instead of the superintendent of the educational service center, 20754
to administer the filing of educator licenses and internship 20755
certificates for the local school district and to provide to the 20756
teachers of the district the written statements required in 20757
division (A)(2) of this section. While such an agreement is in 20758
effect between a local school district and an educational service 20759
center, a teacher employed by the local district shall file a 20760
legal educator license or internship certificate, or true copy of 20761~~

~~it, with the superintendent of the local district and that~~ 20762
~~superintendent shall provide to the teacher the written statement~~ 20763
~~required by division (A)(2) of this section.~~ 20764

~~(C)~~ Notwithstanding division (A) of this section, the 20765
treasurer may pay either of the following: 20766

(1) Any teacher for services rendered during the first two 20767
months of the teacher's initial employment with the school 20768
district or educational service center, provided such teacher is 20769
the holder of a bachelor's degree or higher and has filed with the 20770
state board of education an application for the issuance of a 20771
provisional or professional educator license. 20772

(2) Any substitute teacher for services rendered while 20773
conditionally employed under section 3319.101 of the Revised Code. 20774

~~(D)~~(C) Upon notice to the treasurer given by the state board 20775
of education or any superintendent having jurisdiction that 20776
reports required of a teacher have not been made, the treasurer 20777
shall withhold the salary of the teacher until the required 20778
reports are completed and furnished. 20779

Sec. 3323.12. The board of education of a school district 20780
shall provide home instruction for handicapped children three to 20781
twenty-one years of age who are unable to attend school, even with 20782
the help of special transportation. The board may arrange for the 20783
provision of home instruction for a child by a cooperative 20784
agreement or contract with a county board of mental retardation 20785
and developmental disabilities or other educational agency. For 20786
the purposes of determining formula ADM and average daily 20787
attendance under ~~section~~ sections 3317.03 and 3317.034 of the 20788
Revised Code, five hours of home instruction shall be equivalent 20789
to attendance for five school days. 20790

Sec. 3323.16. No unit for deaf children shall be disapproved 20791

for funding under division (B) or (D)(1) of section 3317.05 of the Revised Code on the basis of the methods of instruction used in educational programs in the school district or institution to teach deaf children to communicate, and no preference in approving units for funding shall be given ~~by the state board~~ for teaching deaf children by the oral, manual, total communication, or other method of instruction.

Sec. 3327.01. Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section and sections 3327.011, 3327.012, and 3327.02 of the Revised Code do not apply to any joint vocational or cooperative education school district.

In all city, local, and exempted village school districts where resident school pupils in grades kindergarten through eight live more than two miles from the school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code and to which they are assigned by the board of education of the district of residence or to and from the nonpublic or community school which they attend the board of education shall provide transportation for such pupils to and from such school except as provided in section 3327.02 of the Revised Code.

In all city, local, and exempted village school districts the board may provide transportation for resident school pupils in grades nine through twelve to and from the high school to which they are assigned by the board of education of the district of residence or to and from the nonpublic or community high school which they attend for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code.

A board of education shall not be required to transport

elementary or high school pupils to and from a nonpublic or 20823
community school where such transportation would require more than 20824
thirty minutes of direct travel time as measured by school bus 20825
from the collection point as designated by ~~the coordinator of~~ 20826
~~school transportation, appointed under section 3327.011 of the~~ 20827
~~Revised Code, for the attendance area of~~ the district of 20828
residence. 20829

Where it is impractical to transport a pupil by school 20830
conveyance, a board of education may offer payment, in lieu of 20831
providing such transportation in accordance with section 3327.02 20832
of the Revised Code. 20833

In all city, local, and exempted village school districts the 20834
board shall provide transportation for all children who are so 20835
crippled that they are unable to walk to and from the school for 20836
which the state board of education prescribes minimum standards 20837
pursuant to division (D) of section 3301.07 of the Revised Code 20838
and which they attend. In case of dispute whether the child is 20839
able to walk to and from the school, the health commissioner shall 20840
be the judge of such ability. In all city, exempted village, and 20841
local school districts the board shall provide transportation to 20842
and from school or special education classes for educable mentally 20843
retarded children in accordance with standards adopted by the 20844
state board of education. 20845

When transportation of pupils is provided the conveyance 20846
shall be run on a time schedule that shall be adopted and put in 20847
force by the board not later than ten days after the beginning of 20848
the school term. 20849

The cost of any transportation service authorized by this 20850
section shall be paid first out of federal funds, if any, 20851
available for the purpose of pupil transportation, and secondly 20852
out of state appropriations, in accordance with regulations 20853
adopted by the state board of education. 20854

No transportation of any pupils shall be provided by any board of education to or from any school which in the selection of pupils, faculty members, or employees, practices discrimination against any person on the grounds of race, color, religion, or national origin.

~~Sec. 3327.011. Coordinators of school transportation shall be appointed according to provisions of section 3301.13 of the Revised Code to assure that each pupil, as provided in section 3327.01 of the Revised Code, is transported to and from the school which he attends in a safe, expedient, and economical manner using public school collection points, routes, and schedules.~~

In determining how best to provide ~~such~~ transportation, where persons or firms on or after April 1, 1965, were providing transportation to and from schools pursuant to contracts with persons or agencies responsible for the operation of such schools, ~~a coordinator or~~ the board of education responsible for transportation in accordance with section 3327.01 of the Revised Code shall give preference if economically feasible during the term of any such contract to the firm or person providing such transportation. The boards of education within the county or group of counties shall ~~recommend to the coordinator of~~ establish transportation routes, schedules, and utilization of transportation equipment. ~~The coordinator, upon receipt of such recommendations, shall establish transportation routes, schedules, and utilization of transportation equipment, following such recommendations to whatever extent is feasible.~~ The appeals from the determination of the ~~coordinator~~ board of education responsible for transportation shall be taken to the state board of education.

Sec. 3329.06. The board of education of each city, exempted

village, and local school district shall furnish, free of charge, 20885
the necessary textbooks to the pupils attending the public 20886
schools. In lieu of textbooks, district boards may furnish 20887
electronic textbooks to pupils attending the public schools, 20888
provided the electronic textbooks are furnished free of charge. A 20889
district board that chooses to furnish electronic textbooks to 20890
pupils attending school in the district shall provide reasonable 20891
access to the electronic textbooks and other necessary computer 20892
equipment to pupils in the district who are required to complete 20893
homework assignments, and teachers providing homework assignments, 20894
utilizing electronic textbooks furnished by the district board. 20895
Pupils wholly or in part supplied with necessary textbooks or 20896
electronic textbooks shall be supplied only as other or new 20897
textbooks or electronic textbooks are needed. ~~A board may limit 20898
its purchase and ownership of textbooks or electronic textbooks 20899
needed for its schools to six subjects per year, the cost of which 20900
shall not exceed twenty five per cent of the entire cost of 20901
adoption.~~ All textbooks or electronic textbooks furnished as 20902
provided in this section shall be the property of the district, 20903
and loaned to the pupils on such terms as each such board 20904
prescribes. In order to carry out sections 3329.01 to 3329.10 of 20905
the Revised Code, each board, in the preparation of its annual 20906
budget, shall include as a separate item the amount which the 20907
board finds necessary to administer such sections and such amount 20908
shall not be subject to transfer to any other fund. 20909

Sec. 3329.08. At any regular meeting, the board of education 20910
of each local school district, from lists adopted by the 20911
educational service center governing board, and the board of 20912
education of each city and exempted village school district shall 20913
determine by a majority vote of all members elected or appointed 20914
under division (B) or (F) of section 3311.71 of the Revised Code 20915
which of such textbooks or electronic textbooks so filed shall be 20916

used in the schools under its control. ~~Except for periodic and~~ 20917
~~normal updating of electronic textbooks, no textbooks or~~ 20918
~~electronic textbooks shall be changed, nor any part thereof~~ 20919
~~altered or revised, nor any other textbook or electronic textbook~~ 20920
~~substituted therefor, within four years after the date of~~ 20921
~~selection and adoption thereof, as shown by the official records~~ 20922
~~of such boards, except by the consent, at a regular meeting, of~~ 20923
~~four fifths of all members elected thereto. Textbooks or~~ 20924
~~electronic textbooks so substituted shall be adopted for the full~~ 20925
~~term of four years.~~ 20926

Sec. 3332.04. The state board of career colleges and schools 20927
may appoint an executive director and such other staff as may be 20928
required for the performance of the board's duties and provide 20929
necessary facilities. In selecting an executive director, the 20930
board shall appoint an individual with a background or experience 20931
in the regulation of commerce, business, or education. The board 20932
may also arrange for services and facilities to be provided by the 20933
state board of education and the Ohio board of regents. All 20934
receipts of the board shall be deposited in the state treasury to 20935
the credit of the ~~general revenue~~ occupational licensing and 20936
regulatory fund. 20937

Sec. 3333.12. (A) As used in this section: 20938

(1) "Eligible student" means an undergraduate student who is: 20939

(a) An Ohio resident; 20940

(b) Enrolled in either of the following: 20941

(i) An accredited institution of higher education in this 20942
state that meets the requirements of Title VI of the Civil Rights 20943
Act of 1964 and is state-assisted, is nonprofit and has a 20944
certificate of authorization from the Ohio board of regents 20945
pursuant to Chapter 1713. of the Revised Code, has a certificate 20946

of registration from the state board of career colleges and 20947
schools and program authorization to award an associate or 20948
bachelor's degree, or is a private institution exempt from 20949
regulation under Chapter 3332. of the Revised Code as prescribed 20950
in section 3333.046 of the Revised Code. Students who attend an 20951
institution that holds a certificate of registration shall be 20952
enrolled in a program leading to an associate or bachelor's degree 20953
for which associate or bachelor's degree program the institution 20954
has program authorization issued under section 3332.05 of the 20955
Revised Code. 20956

(ii) A technical education program of at least two years 20957
duration sponsored by a private institution of higher education in 20958
this state that meets the requirements of Title VI of the Civil 20959
Rights Act of 1964. 20960

(c) Enrolled as a full-time student or enrolled as a less 20961
than full-time student for the term expected to be the student's 20962
final term of enrollment and is enrolled for the number of credit 20963
hours necessary to complete the requirements of the program in 20964
which the student is enrolled. 20965

(2) "Gross income" includes all taxable and nontaxable income 20966
of the parents, the student, and the student's spouse, except 20967
income derived from an Ohio academic scholarship, income earned by 20968
the student between the last day of the spring term and the first 20969
day of the fall term, and other income exclusions designated by 20970
the board. Gross income may be verified to the board by the 20971
institution in which the student is enrolled using the federal 20972
financial aid eligibility verification process or by other means 20973
satisfactory to the board. 20974

(3) "Resident," "full-time student," "dependent," 20975
"financially independent," and "accredited" shall be defined by 20976
rules adopted by the board. 20977

(B) The Ohio board of regents shall establish and administer 20978
an instructional grant program and may adopt rules to carry out 20979
this section. The general assembly shall support the instructional 20980
grant program by such sums and in such manner as it may provide, 20981
but the board may also receive funds from other sources to support 20982
the program. If the amounts available for support of the program 20983
are inadequate to provide grants to all eligible students, 20984
preference in the payment of grants shall be given in terms of 20985
income, beginning with the lowest income category of gross income 20986
and proceeding upward by category to the highest gross income 20987
category. 20988

An instructional grant shall be paid to an eligible student 20989
through the institution in which the student is enrolled, except 20990
that no instructional grant shall be paid to any person serving a 20991
term of imprisonment. Applications for such grants shall be made 20992
as prescribed by the board, and such applications may be made in 20993
conjunction with and upon the basis of information provided in 20994
conjunction with student assistance programs funded by agencies of 20995
the United States government or from financial resources of the 20996
institution of higher education. The institution shall certify 20997
that the student applicant meets the requirements set forth in 20998
divisions (A)(1)(b) and (c) of this section. Instructional grants 20999
shall be provided to an eligible student only as long as the 21000
student is making appropriate progress toward a nursing diploma or 21001
an associate or bachelor's degree. No student shall be eligible to 21002
receive a grant for more than ten semesters, fifteen quarters, or 21003
the equivalent of five academic years. A grant made to an eligible 21004
student on the basis of less than full-time enrollment shall be 21005
based on the number of credit hours for which the student is 21006
enrolled and shall be computed in accordance with a formula 21007
adopted by the board. No student shall receive more than one grant 21008
on the basis of less than full-time enrollment. 21009

\$33,001 - \$34,000	888	984	1,080	1,344	1,626	21041
\$34,001 - \$35,000	444	888	984	1,080	1,344	21042
\$35,001 - \$36,000	--	444	888	984	1,080	21043
\$36,001 - \$37,000	--	--	444	888	984	21044
\$37,001 - \$38,000	--	--	--	444	888	21045
\$38,001 - \$39,000	--	--	--	--	444	21046

For a full-time student who is financially independent and
enrolled in a nonprofit educational institution that is not a
state-assisted institution and that has a certificate of
authorization issued pursuant to Chapter 1713. of the Revised
Code, the amount of the instructional grant for two semesters,
three quarters, or a comparable portion of the academic year shall
be determined in accordance with the following table:

Private Institution							21054
Table of Grants							21055
Maximum Grant \$5,466							21056
Gross Income	Number of Dependents						21057
	0	1	2	3	4	5 or more	21058
\$0 - \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	21059
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466	21060
\$5,301 - \$5,800	4,362	4,920 <u>5,196</u>	5,466	5,466	5,466	5,466	21061
\$5,801 - \$6,300	3,828	4,362 <u>4,914</u>	4,920 <u>5,196</u>	5,466	5,466	5,466	21062
\$6,301 - \$6,800	3,288	3,828 <u>4,650</u>	4,362 <u>4,914</u>	4,920 <u>5,196</u>	5,466	5,466	21063
\$6,801 - \$7,300	2,736	3,288 <u>4,380</u>	3,828 <u>4,650</u>	4,362 <u>4,914</u>	4,920 <u>5,196</u>	5,466	21064
\$7,301 - \$8,300	2,178	2,736 <u>4,104</u>	3,288 <u>4,380</u>	3,828 <u>4,650</u>	4,362 <u>4,914</u>	4,920 <u>5,196</u>	21065
\$8,301 - \$9,300	1,626	2,178	2,736	3,288	3,828	4,362	21066

			<u>3,822</u>	<u>4,104</u>	<u>4,380</u>	<u>4,650</u>	<u>4,914</u>	21073
\$9,301 - \$10,300	1,344	1,626	2,178	2,736	3,288	3,828		21074
		<u>3,546</u>	<u>3,822</u>	<u>4,104</u>	<u>4,380</u>	<u>4,650</u>		21075
\$10,301 - \$11,800	1,080	1,344	1,626	2,178	2,736	3,288		21076
		<u>3,408</u>	<u>3,546</u>	<u>3,822</u>	<u>4,104</u>	<u>4,380</u>		21077
\$11,801 - \$13,300	984	1,080	1,344	1,626	2,178	2,736		21078
		<u>3,276</u>	<u>3,408</u>	<u>3,546</u>	<u>3,822</u>	<u>4,104</u>		21079
\$13,301 - \$14,800	888	984	1,080	1,344	1,626	2,178		21080
		<u>3,228</u>	<u>3,276</u>	<u>3,408</u>	<u>3,546</u>	<u>3,822</u>		21081
\$14,801 - \$16,300	444	888	984	1,080	1,344	1,626		21082
		<u>2,904</u>	<u>3,228</u>	<u>3,276</u>	<u>3,408</u>	<u>3,546</u>		21083
\$16,301 - \$19,300	--	444	888	984	1,080	1,344		21084
		<u>2,136</u>	<u>2,628</u>	<u>2,952</u>	<u>3,276</u>	<u>3,408</u>		21085
\$19,301 - \$22,300	--	—	444	888	984	1,080		21086
		<u>1,368</u>	<u>1,866</u>	<u>2,358</u>	<u>2,676</u>	<u>3,000</u>		21087
\$22,301 - \$25,300	--	—	—	444	888	984		21088
		<u>1,092</u>	<u>1,368</u>	<u>1,866</u>	<u>2,358</u>	<u>2,676</u>		21089
\$25,301 - \$30,300	--	—	—	—	444	888		21090
		<u>816</u>	<u>1,092</u>	<u>1,368</u>	<u>1,866</u>	<u>2,358</u>		21091
\$30,301 - \$35,300	--	—	—	—	—	444		21092
		<u>492</u>	<u>540</u>	<u>672</u>	<u>816</u>	<u>1,314</u>		21093

For a full-time student who is a dependent and enrolled in an educational institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Career Institution	21102
Table of Grants	21103
Maximum Grant \$4,632	21104
Gross Income	21105
Number of Dependents	21105

\$0 - \$4,800	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	21137
\$4,801 - \$5,300	4,182	4,632	4,632	4,632	4,632	4,632	21138
\$5,301 - \$5,800	3,684	4,182	4,632	4,632	4,632	4,632	21139
		<u>4,410</u>					21140
\$5,801 - \$6,300	3,222	3,684	4,182	4,632	4,632	4,632	21141
		<u>4,158</u>	<u>4,410</u>				21142
\$6,301 - \$6,800	2,790	3,222	3,684	4,182	4,632	4,632	21143
		<u>3,930</u>	<u>4,158</u>	<u>4,410</u>			21144
\$6,801 - \$7,300	2,292	2,790	3,222	3,684	4,182	4,632	21145
		<u>3,714</u>	<u>3,930</u>	<u>4,158</u>	<u>4,410</u>		21146
\$7,301 - \$8,300	1,854	2,292	2,790	3,222	3,684	4,182	21147
		<u>3,462</u>	<u>3,714</u>	<u>3,930</u>	<u>4,158</u>	<u>4,410</u>	21148
\$8,301 - \$9,300	1,416	1,854	2,292	2,790	3,222	3,684	21149
		<u>3,246</u>	<u>3,462</u>	<u>3,714</u>	<u>3,930</u>	<u>4,158</u>	21150
\$9,301 - \$10,300	1,134	1,416	1,854	2,292	2,790	3,222	21151
		<u>3,024</u>	<u>3,246</u>	<u>3,462</u>	<u>3,714</u>	<u>3,930</u>	21152
\$10,301 - \$11,800	906	1,134	1,416	1,854	2,292	2,790	21153
		<u>2,886</u>	<u>3,024</u>	<u>3,246</u>	<u>3,462</u>	<u>3,714</u>	21154
\$11,801 - \$13,300	852	906	1,134	1,416	1,854	2,292	21155
		<u>2,772</u>	<u>2,886</u>	<u>3,024</u>	<u>3,246</u>	<u>3,462</u>	21156
\$13,301 - \$14,800	750	852	906	1,134	1,416	1,854	21157
		<u>2,742</u>	<u>2,772</u>	<u>2,886</u>	<u>3,024</u>	<u>3,246</u>	21158
\$14,801 - \$16,300	372	750	852	906	1,134	1,416	21159
		<u>2,466</u>	<u>2,742</u>	<u>2,772</u>	<u>2,886</u>	<u>3,024</u>	21160
\$16,301 - \$19,300	--	372	750	852	906	1,134	21161
		<u>1,800</u>	<u>2,220</u>	<u>2,520</u>	<u>2,772</u>	<u>2,886</u>	21162
\$19,301 - \$22,300	--	—	372	750	852	906	21163
		<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	<u>2,268</u>	<u>2,544</u>	21164
\$22,301 - \$25,300	--	—	—	372	750	852	21165
		<u>930</u>	<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	<u>2,268</u>	21166
\$25,301 - \$30,300	--	—	—	—	372	750	21167
		<u>708</u>	<u>930</u>	<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	21168
\$30,301 - \$35,300	--	—	—	—	—	372	21169

426 456 570 708 1,116 21170

For a full-time student who is a dependent and enrolled in a state-assisted educational institution, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Public Institution 21176

Table of Grants 21177

Maximum Grant \$2,190 21178

Gross Income Number of Dependents 21179

	1	2	3	4	5 or more	
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	21180
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190	21181
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190	21182
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190	21183
\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190	21184
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974	21185
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740	21186
\$25,001 - \$28,000	648	864	1,080	1,320	1,542	21187
\$28,001 - \$31,000	522	648	864	1,080	1,320	21188
\$31,001 - \$32,000	420	522	648	864	1,080	21189
\$32,001 - \$33,000	384	420	522	648	864	21190
\$33,001 - \$34,000	354	384	420	522	648	21191
\$34,001 - \$35,000	174	354	384	420	522	21192
\$35,001 - \$36,000	--	174	354	384	420	21193
\$36,001 - \$37,000	--	--	174	354	384	21194
\$37,001 - \$38,000	--	--	--	174	354	21195
\$38,001 - \$39,000	--	--	--	--	174	21196

For a full-time student who is financially independent and enrolled in a state-assisted educational institution, the amount of the instructional grant for two semesters, three quarters, or a

comparable portion of the academic year shall be determined in accordance with the following table:

Public Institution							21201
Table of Grants							21202
Maximum Grant \$2,190							21203
Gross Income	Number of Dependents						21204
	0	1	2	3	4	5 or more	21205
							21206
							21207
\$0 - \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	21208
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190	21209
\$5,301 - \$5,800	1,740	1,974	2,190	2,190	2,190	2,190	21210
		<u>2,082</u>					21211
\$5,801 - \$6,300	1,542	1,740	1,974	2,190	2,190	2,190	21212
		<u>1,968</u>	<u>2,082</u>				21213
\$6,301 - \$6,800	1,320	1,542	1,740	1,974	2,190	2,190	21214
		<u>1,866</u>	<u>1,968</u>	<u>2,082</u>			21215
\$6,801 - \$7,300	1,080	1,320	1,542	1,740	1,974	2,190	21216
		<u>1,758</u>	<u>1,866</u>	<u>1,968</u>	<u>2,082</u>		21217
\$7,301 - \$8,300	864	1,080	1,320	1,542	1,740	1,974	21218
		<u>1,638</u>	<u>1,758</u>	<u>1,866</u>	<u>1,968</u>	<u>2,082</u>	21219
\$8,301 - \$9,300	648	864	1,080	1,320	1,542	1,740	21220
		<u>1,530</u>	<u>1,638</u>	<u>1,758</u>	<u>1,866</u>	<u>1,968</u>	21221
\$9,301 - \$10,300	522	648	864	1,080	1,320	1,542	21222
		<u>1,422</u>	<u>1,530</u>	<u>1,638</u>	<u>1,758</u>	<u>1,866</u>	21223
\$10,301 - \$11,800	420	522	648	864	1,080	1,320	21224
		<u>1,356</u>	<u>1,422</u>	<u>1,530</u>	<u>1,638</u>	<u>1,758</u>	21225
\$11,801 - \$13,300	384	420	522	648	864	1,080	21226
		<u>1,308</u>	<u>1,356</u>	<u>1,422</u>	<u>1,530</u>	<u>1,638</u>	21227
\$13,301 - \$14,800	354	384	420	522	648	864	21228
		<u>1,290</u>	<u>1,308</u>	<u>1,356</u>	<u>1,422</u>	<u>1,530</u>	21229
\$14,801 - \$16,300	174	354	384	420	522	648	21230
		<u>1,164</u>	<u>1,290</u>	<u>1,308</u>	<u>1,356</u>	<u>1,422</u>	21231
\$16,301 - \$19,300	--	174	354	384	420	522	21232

			<u>858</u>	<u>1,050</u>	<u>1,182</u>	<u>1,308</u>	<u>1,356</u>	21233
\$19,301 - \$22,300	--	—	—	174	354	384	420	21234
			<u>540</u>	<u>750</u>	<u>948</u>	<u>1,062</u>	<u>1,200</u>	21235
\$22,301 - \$25,300	--	—	—	174	354	384	—	21236
			<u>432</u>	<u>540</u>	<u>750</u>	<u>948</u>	<u>1,062</u>	21237
\$25,301 - \$30,300	--	—	—	—	174	—	354	21238
			<u>324</u>	<u>432</u>	<u>540</u>	<u>750</u>	<u>948</u>	21239
\$30,301 - \$35,300	--	—	—	—	—	—	174	21240
			<u>192</u>	<u>210</u>	<u>264</u>	<u>324</u>	<u>522</u>	21241

(D) For a full-time student enrolled in an eligible institution for a semester or quarter in addition to the portion of the academic year covered by a grant determined under division (C) of this section, the maximum grant amount shall be a percentage of the maximum prescribed in the applicable table of that division. The maximum grant for a fourth quarter shall be one-third of the maximum amount prescribed under that division. The maximum grant for a third semester shall be one-half of the maximum amount prescribed under that division.

(E) No grant shall be made to any student in a course of study in theology, religion, or other field of preparation for a religious profession unless such course of study leads to an accredited bachelor of arts, bachelor of science, associate of arts, or associate of science degree.

(F)(1) Except as provided in division (F)(2) of this section, no grant shall be made to any student for enrollment during a fiscal year in an institution with a cohort default rate determined by the United States secretary of education pursuant to the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 20 U.S.C.A. 1085, as amended, as of the fifteenth day of June preceding the fiscal year, equal to or greater than thirty per cent for each of the preceding two fiscal years.

(2) Division (F)(1) of this section does not apply to the

following: 21265

(a) Any student enrolled in an institution that under the 21266
federal law appeals its loss of eligibility for federal financial 21267
aid and the United States secretary of education determines its 21268
cohort default rate after recalculation is lower than the rate 21269
specified in division (F)(1) of this section or the secretary 21270
determines due to mitigating circumstances the institution may 21271
continue to participate in federal financial aid programs. The 21272
board shall adopt rules requiring institutions to provide 21273
information regarding an appeal to the board. 21274

(b) Any student who has previously received a grant under 21275
this section who meets all other requirements of this section. 21276

(3) The board shall adopt rules for the notification of all 21277
institutions whose students will be ineligible to participate in 21278
the grant program pursuant to division (F)(1) of this section. 21279

(4) A student's attendance at an institution whose students 21280
lose eligibility for grants under division (F)(1) of this section 21281
shall not affect that student's eligibility to receive a grant 21282
when enrolled in another institution. 21283

(G) Institutions of higher education that enroll students 21284
receiving instructional grants under this section shall report to 21285
the board all students who have received instructional grants but 21286
are no longer eligible for all or part of such grants and shall 21287
refund any moneys due the state within thirty days after the 21288
beginning of the quarter or term immediately following the quarter 21289
or term in which the student was no longer eligible to receive all 21290
or part of the student's grant. There shall be an interest charge 21291
of one per cent per month on all moneys due and payable after such 21292
thirty-day period. The board shall immediately notify the office 21293
of budget and management and the legislative service commission of 21294
all refunds so received. 21295

Sec. 3333.16. As used in this section "state institution of higher education" means an institution of higher education as defined in section 3345.12 of the Revised Code. 21296
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(A) By April 15, 2005, the Ohio board of regents shall do all of the following: 21299
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(1) Require each state institution of higher education to make changes in its respective academic programs so that successful completion of any course in a particular field of study shall be recognized for full credit at any other state institution of higher education toward satisfying the requirements of a degree or certification program in that same field of study; 21301
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(2) Ensure that community colleges, university branches, technical colleges, and state community colleges comply with the requirement of division (A)(5) of section 3333.20 of the Revised Code that they offer college transfer programs or the initial two years of a baccalaureate degree for students planning to transfer to institutions offering baccalaureate programs; 21307
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(3) Develop and implement a universal course equivalency classification system for state institutions of higher education so that the transfer of students and the transfer and articulation of courses or specified learning modules or units completed by students are not inhibited by inconsistent course classifications. Coursework completed within such a system at one state institution of higher education and transferred to another institution shall be applied to the student's degree objective in the same manner as equivalent coursework completed at the receiving institution. 21313
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(4) Develop a system of transfer policies that ensure that graduates with associate degrees which included completion of approved transfer modules shall be admitted to a state institution of higher education baccalaureate program, except in limited 21322
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access programs or those requiring an audition, and shall have 21326
priority over out-of-state associate degree graduates and transfer 21327
students; 21328

(5) Examine the feasibility of requiring all state 21329
institutions of higher education to adopt either a quarter-hour 21330
system or a semester-hour system. 21331

(B) By April 15, 2004, the board shall report to the general 21332
assembly on its progress in attaining completion of the actions 21333
prescribed in division (A) of this section. 21334

Sec. 3361.01. (A) There is hereby created a state university 21335
to be known as the "university of Cincinnati." The government of 21336
the university of Cincinnati is vested in a board of eleven 21337
trustees who shall be appointed by the governor with the advice 21338
and consent of the senate. Two of the trustees shall be students 21339
at the university of Cincinnati, and their selection and terms 21340
shall be in accordance with division (B) of this section. The 21341
terms of the first nine members of the board of trustees shall 21342
commence upon the effective date of the transfer of assets of the 21343
state-affiliated university of Cincinnati to the university of 21344
Cincinnati hereby created. One of such trustees shall be appointed 21345
for a term ending on the first day of January occurring at least 21346
twelve months after such date of transfer, and each of the other 21347
trustees shall be appointed for respective terms ending on each 21348
succeeding first day of January, so that one term will expire on 21349
each first day of January after expiration of the shortest term. 21350
Except for the two student trustees, each successor trustee shall 21351
be appointed for a term ending on the first day of January, nine 21352
years from the expiration date of the term ~~he~~ the trustee 21353
succeeds, except that any person appointed to fill a vacancy shall 21354
be appointed to serve only for the unexpired term. 21355

Any trustee shall continue in office subsequent to the 21356

expiration date of ~~his~~ the trustee's term until ~~his~~ the trustee's 21357
successor takes office, or until a period of sixty days has 21358
elapsed, whichever occurs first. 21359

No person who has served a full nine-year term or longer or 21360
more than six years of such a term shall be eligible to 21361
reappointment. ~~No person is eligible for appointment to the board~~ 21362
~~of trustees for a full nine-year term who is not at the time of~~ 21363
~~appointment a resident of the city of Cincinnati, unless at the~~ 21364
~~time of such appointment there are at least five members of the~~ 21365
~~board who are not students and who are residents of the city of~~ 21366
~~Cincinnati.~~ 21367

The trustees shall receive no compensation for their services 21368
but shall be paid their reasonable necessary expenses while 21369
engaged in the discharge of their official duties. A majority of 21370
the board constitutes a quorum. 21371

(B) The student members of the board of trustees of the 21372
university of Cincinnati have no voting power on the board. 21373
Student members shall not be considered as members of the board in 21374
determining whether a quorum is present. Student members shall not 21375
be entitled to attend executive sessions of the board. The student 21376
members of the board shall be appointed by the governor, with the 21377
advice and consent of the senate, from a group of five candidates 21378
selected pursuant to a procedure adopted by the university's 21379
student governments and approved by the university's board of 21380
trustees. The initial term of office of one of the student members 21381
shall commence on May 14, 1988 and shall expire on May 13, 1989, 21382
and the initial term of office of the other student member shall 21383
commence on May 14, 1988 and expire on May 13, 1990. Thereafter, 21384
terms of office of student members shall be for two years, each 21385
term ending on the same day of the same month of the year as the 21386
term it succeeds. In the event that a student cannot fulfill ~~his~~ a 21387
two-year term, a replacement shall be selected to fill the 21388

unexpired term in the same manner used to make the original 21389
selection. 21390

Sec. 3365.04. The rules adopted under section 3365.02 of the 21391
Revised Code shall provide for students to enroll in courses under 21392
either of the following options: 21393

(A) The student may elect at the time of enrollment to 21394
receive only college credit for the course. The college shall 21395
notify the student about payment of tuition and fees in the 21396
customary manner followed by the college, and the student shall be 21397
responsible for payment of all tuition and the cost of all 21398
textbooks, materials, and fees associated with the course. If the 21399
student successfully completes the course, the college shall award 21400
the student full credit for the course, but the board of education 21401
or nonpublic participating school shall not award the high school 21402
credit. 21403

(B) The student may elect at the time of enrollment for each 21404
course to receive both college credit and high school credit. 21405
Except as provided in section 3365.041 of the Revised Code, if the 21406
student successfully completes the course, the college shall award 21407
the student full credit for the course, the board of education or 21408
nonpublic school shall award the student high school credit, and 21409
the college shall be reimbursed in accordance with section 3365.07 21410
of the Revised Code. 21411

When determining a school district's formula ADM and average 21412
daily attendance under ~~section~~ sections 3317.03 and 3317.034 of 21413
the Revised Code, the time a participant is attending courses 21414
under division (A) of this section shall be considered as time the 21415
participant is not attending or enrolled in school anywhere, and 21416
the time a participant is attending courses under division (B) of 21417
this section shall be considered as time the participant is 21418
attending or enrolled in the district's schools. 21419

Sec. 3377.01. As used in Chapter 3377. of the Revised Code: 21420

(A) "Educational institution" or "institution" means an 21421
educational institution organized not for profit and holding an 21422
effective certificate of authorization issued under section 21423
1713.02 of the Revised Code. It does not include any institution 21424
created by or in accordance with Title XXXIII of the Revised Code 21425
nor any institution whose principal educational activity is 21426
preparing students for or granting degrees, diplomas, and other 21427
marks of deficiency which have value only in religious and 21428
ecclesiastical fields. 21429

(B) "Educational facility" or "facility" means any building, 21430
structure, facility, equipment, machinery, utility, or 21431
improvement, site, or other interest in real estate therefor or 21432
pertinent thereto, and equipment and furnishings to be used 21433
therein or in connection therewith, together with any 21434
appurtenances necessary or convenient to the uses thereof, to be 21435
used for or in connection with the conduct or operation of an 21436
educational institution, including but not limited to, classrooms 21437
and other instructional facilities, laboratories, research 21438
facilities, libraries, study facilities, administrative and office 21439
facilities, museums, gymnasiums, campus walks, drives and site 21440
improvements, dormitories and other suitable living quarters or 21441
accommodations, dining halls and other food service and 21442
preparation facilities, student services or activity facilities, 21443
physical education, athletic and recreational facilities, 21444
theatres, auditoriums, assembly and exhibition halls, greenhouses, 21445
agricultural buildings and facilities, parking, storage and 21446
maintenance facilities, infirmary, hospital, medical, and health 21447
facilities, continuing education facilities, communications, fire 21448
prevention, and fire fighting facilities, and any one, or any 21449
combination of the foregoing, whether or not comprising part of 21450

one building, structure, or facility. It does not include any 21451
facility used ~~for sectarian instruction or study or~~ exclusively as 21452
a place for devotional activities ~~or religious worship~~. 21453

(C) "Bond proceedings" means the resolution or resolutions, 21454
the trust agreement, the indenture of mortgage, or combination 21455
thereof authorizing or providing for the terms and conditions 21456
applicable to bonds issued under authority of Chapter 3377. of the 21457
Revised Code. 21458

(D) "Pledged facilities" means the project or other property 21459
that is mortgaged or the rentals, revenues, and other income, 21460
charges, and moneys from which are pledged, or both, for the 21461
payment of or the security for the payment of the principal of and 21462
interest on the bonds issued under the authority of section 21463
3377.05 or 3377.06 of the Revised Code. 21464

(E) "Project" means real or personal property, or both, 21465
acquired by gift or purchase, constructed, reconstructed, 21466
enlarged, remodeled, renovated, improved, furnished, or equipped, 21467
or any combination thereof, by or financed by the Ohio higher 21468
educational facility commission, or by funds that are refinanced 21469
or reimbursed by the commission for use by an educational 21470
institution as an educational facility located within the state. 21471

(F) "Project costs" means the costs of acquiring, 21472
constructing, equipping, furnishing, reconstructing, remodeling, 21473
renovating, enlarging, and improving educational facilities 21474
comprising one or more project, including costs connected with or 21475
incidental thereto, provision of capitalized interest prior to and 21476
during construction and for a period after the completion of the 21477
construction, appropriate reserves, architectural, engineering, 21478
financial, and legal services, and all other costs of financing, 21479
and the repayment or restoration of moneys borrowed or advanced 21480
for such purposes or temporarily used therefor from other sources, 21481
and means the costs of refinancing obligations issued or loans 21482

incurred by, or reimbursement of money advanced, invested or 21483
expended by, educational institutions or others the proceeds of 21484
which obligations or loans or the amounts advanced, invested or 21485
expended were used at any time for the payment of project costs, 21486
if the Ohio higher educational facility commission determines that 21487
the refinancing or reimbursement advances the purposes of this 21488
chapter, whether or not the refinancing or reimbursement is in 21489
conjunction with the acquisition or construction of additional 21490
educational facilities. 21491

Sec. 3377.06. In anticipation of the issuance of bonds 21492
authorized by section 3377.05 of the Revised Code, the Ohio higher 21493
educational facility commission may issue bond anticipation notes 21494
of the state and may renew the same from time to time by the 21495
issuance of new notes, but the maximum maturity of such notes, 21496
including renewals thereof, shall not exceed five years from the 21497
date of the issuance of the original notes. Such notes are payable 21498
solely from the revenues and receipts that may be pledged to the 21499
payment of such bonds or from the proceeds of such bonds, or both, 21500
as the commission provides in its resolution authorizing such 21501
notes, and may be additionally secured by covenants of the 21502
commission to the effect that the commission will do such or all 21503
things necessary for the issuance of such bonds, or of renewal 21504
notes under this section in appropriate amount, and either 21505
exchange such bonds or renewal notes therefor or apply the 21506
proceeds thereof to the extent necessary to make full payment on 21507
such notes at the time or times contemplated, as provided in such 21508
resolution. Subject to the provisions of this section, all 21509
provisions for and references to bonds in Chapter 3377. of the 21510
Revised Code are applicable to notes authorized under this section 21511
and any references therein to bondholders shall include holders or 21512
owners of such notes. 21513

Prior to the sale of bonds or notes authorized under section 21514

3377.05 or 3377.06 of the Revised Code, the commission shall 21515
determine that the project to be financed thereby will contribute 21516
to the objectives stated in section 3377.02 of the Revised Code 21517
and that the educational institution to which such project is to 21518
be leased, sold, exchanged, or otherwise disposed of, admits 21519
students without discrimination by reason of race, ~~creed~~, color, 21520
or national origin. 21521

Sec. 3383.01. As used in this chapter: 21522

(A) "Arts" means any of the following: 21523

(1) Visual, musical, dramatic, graphic, design, and other 21524
arts, including, but not limited to, architecture, dance, 21525
literature, motion pictures, music, painting, photography, 21526
sculpture, and theater, and the provision of training or education 21527
in these arts; 21528

(2) The presentation or making available, in museums or other 21529
indoor or outdoor facilities, of principles of science and their 21530
development, use, or application in business, industry, or 21531
commerce or of the history, heritage, development, presentation, 21532
and uses of the arts described in division (A)(1) of this section 21533
and of transportation; 21534

(3) The preservation, presentation, or making available of 21535
features of archaeological, architectural, environmental, or 21536
historical interest or significance in a state historical facility 21537
or a local historical facility. 21538

(B) "Arts organization" means either of the following: 21539

(1) A governmental agency or Ohio nonprofit corporation that 21540
provides programs or activities in areas directly concerned with 21541
the arts; 21542

(2) A regional arts and cultural district as defined in 21543
section 3381.01 of the Revised Code. 21544

(C) "Arts project" means all or any portion of an Ohio arts facility for which the general assembly has specifically authorized the spending of money, or made an appropriation, pursuant to division (D)(3) or (E) of section 3383.07 of the Revised Code.

(D) "Cooperative contract" means a contract between the Ohio arts and sports facilities commission and an arts organization providing the terms and conditions of the cooperative use of an Ohio arts facility.

(E) "Costs of operation" means amounts required to manage an Ohio arts facility that are incurred following the completion of construction of its arts project, provided that both of the following apply:

(1) Those amounts either:

(a) Have been committed to a fund dedicated to that purpose;

(b) Equal the principal of any endowment fund, the income from which is dedicated to that purpose.

(2) The commission and the arts organization have executed an agreement with respect to either of those funds.

(F) "General building services" means general building services for an Ohio arts facility or an Ohio sports facility, including, but not limited to, general custodial care, security, maintenance, repair, painting, decoration, cleaning, utilities, fire safety, grounds and site maintenance and upkeep, and plumbing.

(G) "Governmental agency" means a state agency, a state-supported or state-assisted institution of higher education, a municipal corporation, county, township, or school district, a port authority created under Chapter 4582. of the Revised Code, any other political subdivision or special district in this state

established by or pursuant to law, or any combination of these 21575
entities; except where otherwise indicated, the United States or 21576
any department, division, or agency of the United States, or any 21577
agency, commission, or authority established pursuant to an 21578
interstate compact or agreement. 21579

(H) "Local contributions" means the value of an asset 21580
provided by or on behalf of an arts organization from sources 21581
other than the state, the value and nature of which shall be 21582
approved by the Ohio arts and sports facilities commission, in its 21583
sole discretion. "Local contributions" may include the value of 21584
the site where an arts project is to be constructed. All "local 21585
contributions," except a contribution attributable to such a site, 21586
shall be for the costs of construction of an arts project or the 21587
costs of operation of an arts facility. 21588

(I) "Local historical facility" means a site or facility, 21589
other than a state historical facility, of archaeological, 21590
architectural, environmental, or historical interest or 21591
significance, or a facility, including a storage facility, 21592
appurtenant to the operations of such a site or facility, that is 21593
owned by an arts organization, provided the facility meets the 21594
requirements of division (K)(2)(b) of this section, is managed by 21595
or pursuant to a contract with the Ohio arts and sports facilities 21596
commission, and is used for or in connection with the activities 21597
of the commission, including the presentation or making available 21598
of arts to the public. 21599

(J) "Manage," "operate," or "management" means the provision 21600
of, or the exercise of control over the provision of, activities: 21601

(1) Relating to the arts for an Ohio arts facility, including 21602
as applicable, but not limited to, providing for displays, 21603
exhibitions, specimens, and models; booking of artists, 21604
performances, or presentations; scheduling; and hiring or 21605
contracting for directors, curators, technical and scientific 21606

staff, ushers, stage managers, and others directly related to the 21607
arts activities in the facility; but not including general 21608
building services; 21609

(2) Relating to sports and athletic events for an Ohio sports 21610
facility, including as applicable, but not limited to, providing 21611
for booking of athletes, teams, and events; scheduling; and hiring 21612
or contracting for staff, ushers, managers, and others directly 21613
related to the sports and athletic events in the facility; but not 21614
including general building services. 21615

(K) "Ohio arts facility" means any of the following: 21616

(1) The three theaters located in the state office tower at 21617
77 South High street in Columbus; 21618

(2) Any capital facility in this state to which both of the 21619
following apply: 21620

(a) The construction of an arts project related to the 21621
facility was authorized or funded by the general assembly pursuant 21622
to division (D)(3) of section 3383.07 of the Revised Code and 21623
proceeds of state bonds are used for costs of the arts project. 21624

(b) The facility is managed directly by, or is subject to a 21625
cooperative or management contract with, the Ohio arts and sports 21626
facilities commission, and is used for or in connection with the 21627
activities of the commission, including the presentation or making 21628
available of arts to the public and the provision of training or 21629
education in the arts. ~~A cooperative or management contract shall 21630
be for a term not less than the time remaining to the date of 21631
payment or provision for payment of any state bonds issued to pay 21632
the costs of the arts project, as determined by the director of 21633
budget and management and certified by the director to the Ohio 21634
arts and sports facilities commission and to the Ohio building 21635
authority. 21636~~

(3) A state historical facility or a local historical 21637

facility. 21638

(L) "State agency" means the state or any of its branches, 21639
officers, boards, commissions, authorities, departments, 21640
divisions, or other units or agencies. 21641

(M) "Construction" includes acquisition, including 21642
acquisition by lease-purchase, demolition, reconstruction, 21643
alteration, renovation, remodeling, enlargement, improvement, site 21644
improvements, and related equipping and furnishing. 21645

(N) "State historical facility" means a site or facility of 21646
archaeological, architectural, environmental, or historical 21647
interest or significance, or a facility, including a storage 21648
facility, appurtenant to the operations of such a site or 21649
facility, that is owned by or is located on real property owned by 21650
the state or by an arts organization, so long as the real property 21651
of the arts organization is contiguous to state-owned real 21652
property that is in the care, custody, and control of an arts 21653
organization, and that is managed directly by or is subject to a 21654
cooperative or management contract with the Ohio arts and sports 21655
facilities commission and is used for or in connection with the 21656
activities of the commission, including the presentation or making 21657
available of arts to the public. 21658

(O) "Ohio sports facility" means all or a portion of a 21659
stadium, arena, or other capital facility in this state, a primary 21660
purpose of which is to provide a site or venue for the 21661
presentation to the public of events of one or more major or minor 21662
league professional athletic or sports teams that are associated 21663
with the state or with a city or region of the state, which 21664
facility is owned by or is located on real property owned by the 21665
state or a governmental agency, and including all parking 21666
facilities, walkways, and other auxiliary facilities, equipment, 21667
furnishings, and real and personal property and interests and 21668
rights therein, that may be appropriate for or used for or in 21669

connection with the facility or its operation, for capital costs 21670
of which state funds are spent pursuant to this chapter. A 21671
facility constructed as an Ohio sports facility may be both an 21672
Ohio arts facility and an Ohio sports facility. 21673

Sec. 3383.07. (A) The department of administrative services 21674
shall provide for the construction of an arts project in 21675
conformity with Chapter 153. of the Revised Code, except as 21676
follows: 21677

(1) For an arts project that has an estimated construction 21678
cost, excluding the cost of acquisition, of twenty-five million 21679
dollars or more, and that is financed by the Ohio building 21680
authority, construction services may be provided by the authority 21681
if the authority determines it should provide those services. 21682

(2) For an arts project other than a state historical 21683
facility, construction services may be provided on behalf of the 21684
state by the Ohio arts and sports facilities commission, or by a 21685
governmental agency or an arts organization that occupies, will 21686
occupy, or is responsible for the Ohio arts facility, as 21687
determined by the commission. Construction services to be provided 21688
by a governmental agency or an arts organization shall be 21689
specified in an agreement between the commission and the 21690
governmental agency or arts organization. The agreement, or any 21691
actions taken under it, are not subject to Chapter 123. or 153. of 21692
the Revised Code, except for sections 123.151 and 153.011 of the 21693
Revised Code, and shall be subject to Chapter 4115. of the Revised 21694
Code. 21695

(3) For an arts project that is a state historical facility, 21696
construction services may be provided by the Ohio arts and sports 21697
facilities commission or by an arts organization that occupies, 21698
will occupy, or is responsible for the facility, as determined by 21699
the commission. The construction services to be provided by the 21700

arts organization shall be specified in an agreement between the 21701
commission and the arts organization. That agreement, and any 21702
actions taken under it, are not subject to Chapter 123., 153., or 21703
4115. of the Revised Code. 21704

(B) For an Ohio sports facility that is financed in part by 21705
the Ohio building authority, construction services shall be 21706
provided on behalf of the state by or at the direction of the 21707
governmental agency or nonprofit corporation that will own or be 21708
responsible for the management of the facility, all as determined 21709
by the Ohio arts and sports facilities commission. Any 21710
construction services to be provided by a governmental agency or 21711
nonprofit corporation shall be specified in an agreement between 21712
the commission and the governmental agency or nonprofit 21713
corporation. That agreement, and any actions taken under it, are 21714
not subject to Chapter 123. or 153. of the Revised Code, except 21715
for sections 123.151 and 153.011 of the Revised Code, and shall be 21716
subject to Chapter 4115. of the Revised Code. 21717

(C) General building services for an Ohio arts facility shall 21718
be provided by the Ohio arts and sports facilities commission or 21719
by an arts organization that occupies, will occupy, or is 21720
responsible for the facility, as determined by the commission, 21721
except that the Ohio building authority may elect to provide those 21722
services for Ohio arts facilities financed with proceeds of state 21723
bonds issued by the authority. The costs of management and general 21724
building services shall be paid by the arts organization that 21725
occupies, will occupy, or is responsible for the facility as 21726
provided in an agreement between the commission and the arts 21727
organization, except that the state may pay for general building 21728
services for state-owned arts facilities constructed on 21729
state-owned land. 21730

General building services for an Ohio sports facility shall 21731
be provided by or at the direction of the governmental agency or 21732

nonprofit corporation that will be responsible for the management 21733
of the facility, all as determined by the commission. Any general 21734
building services to be provided by a governmental agency or 21735
nonprofit corporation for an Ohio sports facility shall be 21736
specified in an agreement between the commission and the 21737
governmental agency or nonprofit corporation. That agreement, and 21738
any actions taken under it, are not subject to Chapter 123. or 21739
153. of the Revised Code, except for sections 123.151 and 153.011 21740
of the Revised Code, and shall be subject to Chapter 4115. of the 21741
Revised Code. 21742

(D) This division does not apply to a state historical 21743
facility. No state funds, including any state bond proceeds, shall 21744
be spent on the construction of any arts project under this 21745
chapter unless, with respect to the arts project and to the Ohio 21746
arts facility related to the project, all of the following apply: 21747

(1) The Ohio arts and sports facilities commission has 21748
determined that there is a need for the arts project and the Ohio 21749
arts facility related to the project in the region of the state in 21750
which the Ohio arts facility is located or for which the facility 21751
is proposed. 21752

(2) The commission has determined that, as an indication of 21753
substantial regional support for the arts project, the arts 21754
organization has made provision satisfactory to the commission, in 21755
its sole discretion, for local contributions amounting to not less 21756
than fifty per cent of the total state funding for the arts 21757
project. 21758

(3) The general assembly has specifically authorized the 21759
spending of money on, or made an appropriation for, the 21760
construction of the arts project, or for rental payments relating 21761
to the financing of the construction of the arts project. 21762
Authorization to spend money, or an appropriation, for planning 21763
the arts project does not constitute authorization to spend money 21764

on, or an appropriation for, construction of the arts project. 21765

(E) No state funds, including any state bond proceeds, shall 21766
be spent on the construction of any state historical facility 21767
under this chapter unless the general assembly has specifically 21768
authorized the spending of money on, or made an appropriation for, 21769
the construction of the arts project related to the facility, or 21770
for rental payments relating to the financing of the construction 21771
of the arts project. Authorization to spend money, or an 21772
appropriation, for planning the arts project does not constitute 21773
authorization to spend money on, or an appropriation for, the 21774
construction of the arts project. 21775

(F) State funds shall not be used to pay or reimburse more 21776
than fifteen per cent of the initial estimated construction cost 21777
of an Ohio sports facility, excluding any site acquisition cost, 21778
and no state funds, including any state bond proceeds, shall be 21779
spent on any Ohio sports facility under this chapter unless, with 21780
respect to that facility, all of the following apply: 21781

(1) The Ohio arts and sports facilities commission has 21782
determined that there is a need for the facility in the region of 21783
the state for which the facility is proposed to provide the 21784
function of an Ohio sports facility as provided for in this 21785
chapter. 21786

(2) As an indication of substantial local support for the 21787
facility, the commission has received a financial and development 21788
plan satisfactory to it, and provision has been made, by agreement 21789
or otherwise, satisfactory to the commission, for a contribution 21790
amounting to not less than eighty-five per cent of the total 21791
estimated construction cost of the facility, excluding any site 21792
acquisition cost, from sources other than the state. 21793

(3) The general assembly has specifically authorized the 21794
spending of money on, or made an appropriation for, the 21795

construction of the facility, or for rental payments relating to 21796
state financing of all or a portion of the costs of constructing 21797
the facility. Authorization to spend money, or an appropriation, 21798
for planning or determining the feasibility of or need for the 21799
facility does not constitute authorization to spend money on, or 21800
an appropriation for, costs of constructing the facility. 21801

(4) If state bond proceeds are being used for the Ohio sports 21802
facility, the state or a governmental agency owns or has 21803
sufficient property interests in the facility or in the site of 21804
the facility or in the portion or portions of the facility 21805
financed from proceeds of state bonds, which may include, but is 21806
not limited to, the right to use or to require the use of the 21807
facility for the presentation of sport and athletic events to the 21808
public at the facility, ~~extending for a period of not less than~~ 21809
~~the greater of the useful life of the portion of the facility~~ 21810
~~financed from proceeds of those bonds as determined using the~~ 21811
~~guidelines for maximum maturities as provided under divisions (B),~~ 21812
~~(C), and (D) of section 133.20 of the Revised Code, or the period~~ 21813
~~of time remaining to the date of payment or provision for payment~~ 21814
~~of outstanding state bonds allocable to costs of the facility, all~~ 21815
~~as determined by the director of budget and management and~~ 21816
~~certified by the director to the Ohio arts and sports facilities~~ 21817
~~commission and to the Ohio building authority.~~ 21818

Sec. 3501.011. (A) Except as otherwise provided in divisions 21819
(B) and (C) of this section, and except as otherwise provided in 21820
any section of Title XXXV of the Revised Code to the contrary, as 21821
used in the sections of the Revised Code relating to elections and 21822
political communications, whenever a person is required to sign or 21823
affix a signature to a declaration of candidacy, nominating 21824
petition, declaration of intent to be a write-in candidate, 21825
initiative petition, referendum petition, recall petition, or any 21826
other kind of petition, or to sign or affix a signature on any 21827

other document that is filed with or transmitted to a board of elections or the office of the secretary of state, "sign" or "signature" means that person's written, cursive-style legal mark written in that person's own hand. 21828
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(B) For persons who do not use a cursive-style legal mark during the course of their regular business and legal affairs, "sign" or "signature" means that person's other legal mark that the person uses during the course of that person's regular business and legal affairs that is written in the person's own hand. 21832
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(C) Any voter registration record requiring a person's signature shall be signed using the person's legal mark used in the person's regular business and legal affairs. For any purpose described in division (A) of this section, the legal mark of a registered elector shall be considered to be the mark of that elector as it appears on the elector's voter registration record. 21838
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Sec. 3501.18. (A) The board of elections may divide a political subdivision~~7~~ within its jurisdiction~~7~~ into precincts ~~and~~and establish, define, divide, rearrange, and combine the several election precincts within its jurisdiction~~7~~ and change the location of the polling place for each precinct when it is necessary to maintain the requirements as to the number of voters in a precinct and to provide for the convenience of the voters and the proper conduct of elections, ~~provided that no~~ No change in the number of precincts or in precinct boundaries shall be made during the twenty-five days immediately preceding a primary or general election ~~nor~~ or between the first day of January and the day on which the members of county central committees are elected in the years in which those committees are elected. Except as otherwise provided in division (C) of this section, each precinct shall contain a number of electors, not to exceed one thousand 21844
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four hundred, that the board of elections determines to be a 21859
reasonable number after taking into consideration the type and 21860
amount of available equipment, prior voter turnout, the size and 21861
location of each selected polling place, available parking, 21862
availability of an adequate number of poll workers, and handicap 21863
accessibility and other accessibility to the polling place. 21864

If the board changes the boundaries of a precinct after the 21865
filing of a local option election petition pursuant to sections 21866
4301.32 to 4301.41, 4303.29, or 4305.14 of the Revised Code that 21867
calls for a local option election to be held in that precinct, the 21868
local option election shall be held in the area that constituted 21869
the precinct at the time the local option petition was filed, 21870
regardless of the change in the boundaries. 21871

If the board changes the boundaries of a precinct in order to 21872
meet the requirements of division (B)(1) of this section in a 21873
manner that causes a member of a county central committee to no 21874
longer qualify as a representative of an election precinct in the 21875
county, of a ward of a city in the county, or of a township in the 21876
county, the member shall continue to represent the precinct, ward, 21877
or township for the remainder of the member's term, regardless of 21878
the change in boundaries. 21879

In an emergency, the board may provide more than one polling 21880
place in a precinct. In order to provide for the convenience of 21881
the voters, the board may locate polling places for voting or 21882
registration outside the boundaries of precincts, provided that 21883
the nearest public school or public building shall be used if the 21884
board determines it to be available and suitable for use as a 21885
polling place. Except in an emergency, no change in the number or 21886
location of the polling places in a precinct shall be made during 21887
the twenty-five days immediately preceding a primary or general 21888
election. 21889

Electors who have failed to respond within thirty days to any 21890

confirmation notice shall not be counted in determining the size 21891
of any precinct under this section. 21892

(B)(1) Except as otherwise provided in division (B)(2) ~~or (3)~~ 21893
of this section, ~~not later than August 1, 2000, the~~ a board of 21894
elections shall determine all precinct boundaries using 21895
geographical units used by the United States department of 21896
commerce, bureau of the census, in reporting the decennial census 21897
of Ohio. 21898

~~(2) When any part of the boundary of a precinct also forms a 21899
part of the boundary of a legislative district and the precinct 21900
boundary cannot be determined by August 1, 2000, using the 21901
geographical units described in division (B)(1) of this section 21902
without making that part of the precinct boundary that also forms 21903
part of the legislative district boundary different from that 21904
legislative district boundary, the board of elections may 21905
determine the boundary of that precinct using the geographical 21906
units described in division (B)(1) of this section not later than 21907
April 1, 2002. As used in this division, legislative district 21908
means a district determined under Article XI of the Ohio 21909
Constitution. 21910~~

~~(3) The board of elections may apply to the secretary of 21911
state for a waiver from the requirement of division (B)(1) of this 21912
section when it is not feasible to comply with that requirement 21913
because of unusual physical boundaries or residential development 21914
practices that would cause unusual hardship for voters. The board 21915
shall identify the affected precincts and census units, explain 21916
the reason for the waiver request, and include a map illustrating 21917
where the census units will be split because of the requested 21918
waiver. If the secretary of state approves the waiver and so 21919
notifies the board of elections in writing, the board may change a 21920
precinct boundary as necessary under this section, notwithstanding 21921
the requirement in division (B)(1) of this section. 21922~~

(C) The board of elections may apply to the secretary of state for a waiver from the requirement of division (A) of this section regarding the number of electors in a precinct when the use of geographical units used by the United States department of commerce, bureau of the census, will cause a precinct to contain more than one thousand four hundred electors. The board shall identify the affected precincts and census units, explain the reason for the waiver request, and include a map illustrating where census units will be split because of the requested waiver. If the secretary of state approves the waiver and so notifies the board of elections in writing, the board may change a precinct boundary as necessary to meet the requirements of division (B)(1) of this section.

Sec. 3501.30. (A) The board of elections shall provide for each polling place the necessary ballot boxes, official ballots, cards of instructions, registration forms, pollbooks, or poll lists, tally sheets, forms on which to make summary statements, writing implements, paper, and all other supplies necessary for casting and counting the ballots and recording the results of the voting at ~~such the~~ polling place. ~~Such~~ The pollbooks or poll lists shall have certificates appropriately printed ~~thereon~~ on them for the signatures of all the precinct officials, by which they shall certify that, to the best of their knowledge and belief, ~~said the~~ pollbooks or poll lists correctly show the names of all electors who voted in ~~such the~~ polling place at the election indicated ~~therein~~ in the pollbook or poll list.

A All of the following shall be included among the supplies provided to each polling place:

(1) A large map of each appropriate precinct shall be included among the supplies to each polling place, which shall be displayed prominently to assist persons who desire to register or

vote on election day. Each map shall show all streets within the precinct and contain identifying symbols of the precinct in bold print.

~~Such supplies shall also include a~~ (2) Any materials, postings, or instructions required to comply with state or federal laws;

(3) A flag of the United States approximately two and one-half feet in length along the top, which shall be displayed outside the entrance to the polling place during the time it is open for voting. ~~Two;~~

(4) Two or more small flags of the United States approximately fifteen inches in length along the top ~~shall be provided and, which~~ shall be placed at a distance of one hundred feet from the polling place on the thoroughfares or walkways leading to the polling place, to mark the distance within which persons other than election officials, witnesses, challengers, police officers, and electors waiting to mark, marking, or casting their ballots shall not loiter, congregate, or engage in any kind of election campaigning. Where small flags cannot reasonably be placed one hundred feet from the polling place, the presiding election judge shall place the flags as near to one hundred feet from the entrance to the polling place as is physically possible. Police officers and all election officials shall see that this prohibition against loitering and congregating is enforced. ~~When~~

When the period of time during which the polling place is open for voting expires, all of ~~said~~ the flags described in this division shall be taken into the polling place, and shall be returned to the board together with all other election ~~materials~~ ~~and~~ supplies required to be delivered to ~~such~~ the board.

(B) The board of elections shall follow the instructions and advisories of the secretary of state in the production and use of

polling place supplies. 21985

Sec. 3503.10. (A) Each designated agency shall designate one 21986
person within that agency to serve as coordinator for the voter 21987
registration program within the agency and its departments, 21988
divisions, and programs. The designated person shall be trained 21989
under a program designed by the secretary of state and shall be 21990
responsible for administering all aspects of the voter 21991
registration program for that agency as prescribed by the 21992
secretary of state. The designated person shall receive no 21993
additional compensation for performing such duties. 21994

(B) Every designated agency, public high school and 21995
vocational school, public library, and office of a county 21996
treasurer shall provide in each of its offices or locations voter 21997
registration applications and assistance in the registration of 21998
persons qualified to register to vote, in accordance with this 21999
chapter. 22000

(C) Every designated agency shall distribute to its 22001
applicants, prior to or in conjunction with distributing a voter 22002
registration application, a form prescribed by the secretary of 22003
state that includes all of the following: 22004

(1) The question, "Do you want to register to vote or update 22005
your current voter registration?"--followed by boxes for the 22006
applicant to indicate whether the applicant would like to register 22007
or decline to register to vote, and the statement, highlighted in 22008
bold print, "If you do not check either box, you will be 22009
considered to have decided not to register to vote at this time."; 22010

(2) If the agency provides public assistance, the statement, 22011
"Applying to register or declining to register to vote will not 22012
affect the amount of assistance that you will be provided by this 22013
agency."; 22014

(3) The statement, "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.;"

(4) The statement, "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the prosecuting attorney of your county or with the secretary of state," with the address and telephone number for each such official's office.

(D) Each designated agency shall distribute a voter registration form prescribed by the secretary of state to each applicant with each application for service or assistance, and with each written application or form for recertification, renewal, or change of address.

(E) Each designated agency shall do all of the following:

(1) Have employees trained to administer the voter registration program in order to provide to each applicant who wishes to register to vote and who accepts assistance, the same degree of assistance with regard to completion of the voter registration application as is provided by the agency with regard to the completion of its own form;

(2) Accept completed voter registration applications, voter registration change of residence forms, and voter registration change of name forms, regardless of whether the application or form was distributed by the designated agency, for transmittal to the office of the board of elections in the county in which the agency is located. Each designated agency and the appropriate board of elections shall establish a method by which the voter

registration applications and other voter registration forms are 22046
transmitted to that board of elections within five days after 22047
being accepted by the agency. 22048

(3) If the designated agency is one that is primarily engaged 22049
in providing services to persons with disabilities under a 22050
state-funded program, and that agency provides services to a 22051
person with disabilities at a person's home, provide the services 22052
described in divisions (E)(1) and (2) of this section at the 22053
person's home; 22054

(4) Keep as confidential, except as required by the secretary 22055
of state for record-keeping purposes, the identity of an agency 22056
through which a person registered to vote or updated the person's 22057
voter registration records, and information relating to a 22058
declination to register to vote made in connection with a voter 22059
registration application issued by a designated agency. 22060

(F) The secretary of state shall prepare and transmit written 22061
instructions on the implementation of the voter registration 22062
program within each designated agency, public high school and 22063
vocational school, public library, and office of a county 22064
treasurer. The instructions shall include directions as follows: 22065

(1) That each person designated to assist with voter 22066
registration maintain strict neutrality with respect to a person's 22067
political philosophies, a person's right to register or decline to 22068
register, and any other matter that may influence a person's 22069
decision to register or not register to vote; 22070

(2) That each person designated to assist with voter 22071
registration not seek to influence a person's decision to register 22072
or not register to vote, not display or demonstrate any political 22073
preference or party allegiance, and not make any statement to a 22074
person or take any action the purpose or effect of which is to 22075
lead a person to believe that a decision to register or not 22076

register has any bearing on the availability of services or 22077
benefits offered, on the grade in a particular class in school, or 22078
on credit for a particular class in school; 22079

(3) Regarding when and how to assist a person in completing 22080
the voter registration application, what to do with the completed 22081
voter registration application or voter registration update form, 22082
and when the application must be transmitted to the appropriate 22083
board of elections; 22084

(4) Regarding what records must be kept by the agency and 22085
where and when those records should be transmitted to satisfy 22086
reporting requirements imposed on the secretary of state under the 22087
National Voter Registration Act of 1993; 22088

(5) Regarding whom to contact to obtain answers to questions 22089
about voter registration forms and procedures. 22090

(G) If the voter registration activity is part of an in-class 22091
voter registration program in a public high school or vocational 22092
school, whether prescribed by the secretary of state or 22093
independent of the secretary of state, the board of education 22094
shall do all of the following: 22095

(1) Establish a schedule of school days and hours during 22096
these days when the person designated to assist with voter 22097
registration shall provide voter registration assistance; 22098

(2) Designate a person to assist with voter registration from 22099
the public high school's or vocational school's staff; 22100

(3) Make voter registration applications and materials 22101
available, as outlined in the voter registration program 22102
established by the secretary of state pursuant to section 3501.05 22103
of the Revised Code; 22104

(4) Distribute the statement, "applying to register or 22105
declining to register to vote will not affect or be a condition of 22106

your receiving a particular grade in or credit for a school course 22107
or class, participating in a curricular or extracurricular 22108
activity, receiving a benefit or privilege, or participating in a 22109
program or activity otherwise available to pupils enrolled in this 22110
school district's schools."; 22111

(5) Establish a method by which the voter registration 22112
application and other voter registration forms are transmitted to 22113
the board of elections within five days after being accepted by 22114
the public high school or vocational school. 22115

(H) Any person employed by the designated agency, public high 22116
school or vocational school, public library, or office of a county 22117
treasurer may be designated to assist with voter registration 22118
pursuant to this section. The designated agency, public high 22119
school or vocational school, public library, or office of a county 22120
treasurer shall provide the designated person, and make available 22121
such space as may be necessary, without charge to the county or 22122
state. 22123

(I) The secretary of state shall prepare and cause to be 22124
displayed in a prominent location in each designated agency a 22125
notice that identifies the person designated to assist with voter 22126
registration, the nature of that person's duties, and where and 22127
when that person is available for assisting in the registration of 22128
voters. 22129

A designated agency may furnish additional supplies and 22130
services to disseminate information to increase public awareness 22131
of the existence of a person designated to assist with voter 22132
registration in every designated agency. 22133

(J) This section does not limit any authority a board of 22134
education, superintendent, or principal has to allow, sponsor, or 22135
promote voluntary election registration programs within a high 22136
school or vocational school, including programs in which pupils 22137

serve as persons designated to assist with voter registration, 22138
provided that no pupil is required to participate. 22139

(K) Each public library and office of the county treasurer 22140
shall establish a method by which voter registration forms are 22141
transmitted to the board of elections within five days after being 22142
accepted by the public library or office of the county treasurer. 22143

(L) The department of job and family services and its 22144
departments, divisions, and programs shall limit administration of 22145
the aspects of the voter registration program for the department 22146
to the requirements prescribed by the secretary of state and the 22147
requirements of this section and the National Voter Registration 22148
Act of 1993. 22149

Sec. 3505.08. (A) Ballots shall be provided by the board of 22150
elections for all general and special elections. ~~Such~~ The ballots 22151
shall be printed with black ink on No. 2 white book paper fifty 22152
pounds in weight per ream assuming such ream to consist of five 22153
hundred sheets of such paper twenty-five by thirty-eight inches in 22154
size. Each ballot shall have attached at the top two stubs, each 22155
of the width of the ballot and not less than one-half inch in 22156
length, except that, if the board of elections has an alternate 22157
method to account for the ballots that the secretary of state has 22158
authorized, each ballot may have only one stub that shall be the 22159
width of the ballot and not less than one-half inch in length. In 22160
the case of ballots with two stubs, the stubs shall be separated 22161
from the ballot and from each other by perforated lines. The top 22162
stub shall be known as Stub B and shall have printed on its face 22163
"Stub B." The other stub shall be known as Stub A and shall have 22164
printed on its face "Stub A." Each stub shall also have printed on 22165
its face "Consecutive Number" ~~Each~~ 22166

Each ballot of each kind of ballot provided for use in each 22167
precinct shall be numbered consecutively beginning with number 1 22168

by printing such number upon both of the stubs attached ~~thereto to~~ to 22169
the ballot. On ballots bearing the names of candidates, each 22170
candidate's name shall be printed in twelve point boldface upper 22171
case type in an enclosed rectangular space, and an enclosed blank 22172
rectangular space shall be provided at the left ~~thereof of the~~ 22173
candidate's name. The name of the political party of a candidate 22174
nominated at a primary election or certified by a party committee 22175
shall be printed in ten point lightface upper and lower case type 22176
and shall be separated by a two point blank space. The name of 22177
each candidate shall be indented one space within ~~such the~~ 22178
enclosed rectangular space, and the name of the political party 22179
shall be indented two spaces within ~~such the enclosed~~ rectangular 22180
space. ~~The~~ 22181

The title of each office on ~~such the~~ ballots shall be printed 22182
in twelve point boldface upper and lower case type in a separate 22183
enclosed rectangular space. A four point rule shall separate the 22184
name of a candidate or a group of candidates for the same office 22185
from the title of the office next appearing below on the ballot, 22186
~~and~~ a two point rule shall separate the title of the office from 22187
the names of candidates, and a one point rule shall separate names 22188
of candidates. Headings shall be printed in display Roman type. 22189
When the names of several candidates are grouped together as 22190
candidates for the same office, there shall be printed on ~~such the~~ 22191
ballots immediately below the title of ~~such the~~ office and within 22192
the separate rectangular space in which ~~such the~~ title is printed 22193
"Vote for not more than," in six point boldface upper and 22194
lower case filling the blank space with that number which will 22195
indicate the number of persons who may be lawfully elected to ~~such~~ 22196
the office. 22197

Columns on ballots shall be separated from each other by a 22198
heavy vertical border or solid line at least one-eighth of an inch 22199
wide, and a similar vertical border or line shall enclose the left 22200

and right side of ballots, ~~and ballots.~~ Ballots shall be trimmed 22201
along the sides close to such lines. 22202

The ballots provided for by this section shall be comprised 22203
of four kinds of ballots designated as follows: ~~(A)~~ office type 22204
ballot; ~~(B)~~ nonpartisan ballot; ~~(C)~~ questions and issues ballot; 22205
~~(D)~~ and presidential ballot. 22206

On the back of each office type ballot shall be printed 22207
"Official Office Type Ballot;" on the back of each nonpartisan 22208
ballot shall be printed "Official Nonpartisan Ballot;" on the back 22209
of each questions and issues ballot shall be printed "Official 22210
Questions and Issues Ballot;" and on the back of each presidential 22211
ballot shall be printed "Official Presidential Ballot." On the 22212
back of every ballot also shall be printed the date of the 22213
election at which the ballot is used and the facsimile signatures 22214
of the members of the board of the county in which the ballot is 22215
used. For the purpose of identifying the kind of ballot, the back 22216
of every ballot may be numbered in ~~such~~ the order ~~as~~ the board 22217
shall determine. ~~Such~~ The numbers shall be printed in not less 22218
than thirty-six point type above the words "Official Office Type 22219
Ballot," "Official Nonpartisan Ballot," "Official Questions and 22220
Issues Ballot," or "Official Presidential Ballot," as the case may 22221
be. Ballot boxes bearing corresponding numbers shall be furnished 22222
for each precinct in which the above-described numbered ballots 22223
are used. 22224

On the back of every ballot used, there shall be a solid 22225
black line printed opposite the blank rectangular space that is 22226
used to mark the choice of the voter. This line shall be printed 22227
wide enough so that the mark in the blank rectangular space will 22228
not be visible from the back side of the ballot. 22229

Sample ballots may be printed by the board of elections for 22230
all general elections. ~~Such~~ The ballots shall be printed on 22231
colored paper, and "Sample Ballot" shall be plainly printed in 22232

boldface type on the face of each ballot. In counties of less than 22233
one hundred thousand population, the board may print not more than 22234
five hundred sample ballots; in all other counties, it may print 22235
not more than one thousand sample ballots. ~~Such~~ The sample ballots 22236
shall not be distributed by a political party or a candidate, nor 22237
shall a political party or candidate cause their title or name to 22238
be imprinted ~~thereon~~ on sample ballots. 22239

(B) Notwithstanding division (A) of this section, in 22240
approving the form of an official ballot, the secretary of state 22241
may authorize the use of fonts, type face settings, and ballot 22242
formats other than those prescribed in that division. 22243

Sec. 3517.092. (A) As used in this section: 22244

(1) "Appointing authority" has the same meaning as in section 22245
124.01 of the Revised Code. 22246

(2) "State elected officer" means any person appointed or 22247
elected to a state elective office. 22248

(3) "State elective office" means any of the offices of 22249
governor, lieutenant governor, secretary of state, auditor of 22250
state, treasurer of state, attorney general, member of the state 22251
board of education, member of the general assembly, and justice 22252
and chief justice of the supreme court. 22253

(4) "County elected officer" means any person appointed or 22254
elected to a county elective office. 22255

(5) "County elective office" means any of the offices of 22256
county auditor, county treasurer, clerk of the court of common 22257
pleas, sheriff, county recorder, county engineer, county 22258
commissioner, prosecuting attorney, and coroner. 22259

(6) "Contribution" includes a contribution to any political 22260
party, campaign committee, political action committee, political 22261
contributing entity, or legislative campaign fund. 22262

(B) No state elected officer, no campaign committee of such an officer, and no other person or entity shall knowingly solicit or accept a contribution on behalf of that officer or that officer's campaign committee from any of the following:

(1) A state employee whose appointing authority is the state elected officer;

(2) A state employee whose appointing authority is authorized or required by law to be appointed by the state elected officer;

(3) A state employee who functions in or is employed in or by the same public agency, department, division, or office as the state elected officer.

(C) No candidate for a state elective office, no campaign committee of such a candidate, and no other person or entity shall knowingly solicit or accept a contribution on behalf of that candidate or that candidate's campaign committee from any of the following:

(1) A state employee at the time of the solicitation, whose appointing authority will be the candidate, if elected;

(2) A state employee at the time of the solicitation, whose appointing authority will be appointed by the candidate, if elected, as authorized or required by law;

(3) A state employee at the time of the solicitation, who will function in or be employed in or by the same public agency, department, division, or office as the candidate, if elected.

(D) No county elected officer, no campaign committee of such an officer, and no other person or entity shall knowingly solicit a contribution on behalf of that officer or that officer's campaign committee from any of the following:

(1) A county employee whose appointing authority is the county elected officer;

(2) A county employee whose appointing authority is authorized or required by law to be appointed by the county elected officer;	22293 22294 22295
(3) A county employee who functions in or is employed in or by the same public agency, department, division, or office as the county elected officer.	22296 22297 22298
(E) No candidate for a county elective office, no campaign committee of such a candidate, and no other person or entity shall knowingly solicit a contribution on behalf of that candidate or that candidate's campaign committee from any of the following:	22299 22300 22301 22302
(1) A county employee at the time of the solicitation, whose appointing authority will be the candidate, if elected;	22303 22304
(2) A county employee at the time of the solicitation, whose appointing authority will be appointed by the candidate, if elected, as authorized or required by law;	22305 22306 22307
(3) A county employee at the time of the solicitation, who will function in or be employed in or by the same public agency, department, division, or office as the candidate, if elected.	22308 22309 22310
(F)(1) No public employee shall solicit a contribution from any person while the public employee is performing the public employee's official duties or in those areas of a public building where official business is transacted or conducted.	22311 22312 22313 22314
(2) No person shall solicit a contribution from any public employee while the public employee is performing the public employee's official duties or is in those areas of a public building where official business is transacted or conducted.	22315 22316 22317 22318
(3) As used in division (F) of this section, "public employee" does not include any person holding an elective office.	22319 22320
(G) The prohibitions in divisions (B), (C), (D), (E), and (F) of this section are in addition to the prohibitions in sections	22321 22322

124.57, ~~1553.09~~, 3304.22, and 4503.032 of the Revised Code. 22323

Sec. 3701.021. (A) The public health council shall adopt, in 22324
accordance with Chapter 119. of the Revised Code, such rules as 22325
are necessary to carry out sections 3701.021 to ~~3701.028~~ 3701.0210 22326
of the Revised Code, including, but not limited to, rules to 22327
establish the following: 22328

(1) Medical and financial eligibility requirements for the 22329
program for medically handicapped children; 22330

(2) Eligibility requirements for providers of services for 22331
medically handicapped children; 22332

(3) Procedures to be followed by the department of health in 22333
disqualifying providers for violating requirements adopted under 22334
division (A)(2) of this section; 22335

(4) Procedures to be used by the department regarding 22336
application for diagnostic services under division (B) of section 22337
3701.023 of the Revised Code and payment for those services under 22338
division (E) of that section; 22339

(5) Standards for the provision of service coordination by 22340
the department of health and city and general health districts; 22341

(6) Procedures for the department to use to determine the 22342
amount to be paid annually by each county for services for 22343
medically handicapped children and to allow counties to retain 22344
funds under divisions (A)(2) and (3) of section 3701.024 of the 22345
Revised Code; 22346

(7) Financial eligibility requirements for services for Ohio 22347
residents twenty-one years of age or older who have cystic 22348
fibrosis; 22349

(8) Criteria for payment of approved providers who provide 22350
services for medically handicapped children; 22351

(9) Criteria for the department to use in determining whether the payment of health insurance premiums of participants in the program for medically handicapped children is cost-effective;

(10) Procedures for appeal of denials of applications under divisions (A) and (D) of section 3701.023 of the Revised Code, disqualification of providers, and amounts paid for services;

(11) Terms of appointment for members of the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code;

(12) Eligibility requirements for the hemophilia program, including income and hardship requirements.

(B) The department of health shall develop a manual of operational procedures and guidelines for the program for medically handicapped children to implement sections 3701.021 to ~~3701.028~~ 3701.0210 of the Revised Code.

Sec. 3701.022. As used in sections 3701.021 to ~~3701.028~~ 3701.0210 of the Revised Code:

(A) "Medically handicapped child" means an Ohio resident under twenty-one years of age who suffers primarily from an organic disease, defect, or a congenital or acquired physically handicapping and associated condition that may hinder the achievement of normal growth and development.

(B) "Provider" means a health professional, hospital, medical equipment supplier, and any individual, group, or agency that is approved by the department of health pursuant to division (C) of section 3701.023 of the Revised Code and that provides or intends to provide goods or services to a child who is eligible for the program for medically handicapped children.

(C) "Service coordination" means case management services provided to medically handicapped children that promote effective

and efficient organization and utilization of public and private 22382
resources and ensure that care rendered is family-centered, 22383
community-based, and coordinated. 22384

(D)(1) "Third party" means any person or government entity 22385
other than the following: 22386

(a) A medically handicapped child participating in the 22387
program for medically handicapped children or the child's parent 22388
or guardian; 22389

(b) The department or any program administered by the 22390
department, including the "Maternal and Child Health Block Grant," 22391
Title V of the "Social Security Act," 95 Stat. 818 (1981), 42 22392
U.S.C.A. 701, as amended; 22393

(c) The "caring program for children" operated by the 22394
nonprofit community mutual insurance corporation. 22395

(2) "Third party" includes all of the following: 22396

(a) Any trust established to benefit a medically handicapped 22397
child participating in the program or the child's family or 22398
guardians, if the trust was established after the date the 22399
medically handicapped child applied to participate in the program; 22400

(b) That portion of a trust designated to pay for the medical 22401
and ancillary care of a medically handicapped child, if the trust 22402
was established on or before the date the medically handicapped 22403
child applied to participate in the program; 22404

(c) The program awarding reparations to victims of crime 22405
established under sections 2743.51 to 2743.72 of the Revised Code. 22406

(E) "Third-party benefits" means any and all benefits paid by 22407
a third party to or on behalf of a medically handicapped child 22408
participating in the program or the child's parent or guardian for 22409
goods or services that are authorized by the department pursuant 22410
to division (B) or (D) of section 3701.023 of the Revised Code. 22411

(F) "Hemophilia program" means the hemophilia program the 22412
department of health is required to establish and administer under 22413
section 3701.029 of the Revised Code. 22414

Sec. 3701.024. (A)(1) Under a procedure established in rules 22415
adopted under section 3701.021 of the Revised Code, the department 22416
of health shall determine the amount each county shall provide 22417
annually for the program for medically handicapped children, based 22418
on a proportion of the county's total general property tax 22419
duplicate, not to exceed one-tenth of a mill ~~through fiscal year~~ 22420
~~2005 and three tenths of a mill thereafter~~, and charge the county 22421
for any part of expenses incurred under the program for treatment 22422
services on behalf of medically handicapped children having legal 22423
settlement in the county that is not paid from federal funds or 22424
through the medical assistance program established under section 22425
5111.01 of the Revised Code. The department shall not charge the 22426
county for expenses exceeding the difference between the amount 22427
determined under division (A)(1) of this section and any amounts 22428
retained under divisions (A)(2) and (3) of this section. 22429

All amounts collected by the department under division (A)(1) 22430
of this section shall be deposited into the state treasury to the 22431
credit of the medically handicapped children-county assessment 22432
fund, which is hereby created. The fund shall be used by the 22433
department to comply with sections 3701.021 to 3701.028 of the 22434
Revised Code. 22435

(2) The department, in accordance with rules adopted under 22436
section 3701.021 of the Revised Code, may allow each county to 22437
retain up to ten per cent of the amount determined under division 22438
(A)(1) of this section to provide funds to city or general health 22439
districts of the county with which the districts shall provide 22440
service coordination, public health nursing, or transportation 22441
services for medically handicapped children. 22442

(3) In addition to any amount retained under division (A)(2) 22443
of this section, the department, in accordance with rules adopted 22444
under section 3701.021 of the Revised Code, may allow counties 22445
that it determines have significant numbers of potentially 22446
eligible medically handicapped children to retain an amount equal 22447
to the difference between: 22448

(a) Twenty-five per cent of the amount determined under 22449
division (A)(1) of this section; 22450

(b) Any amount retained under division (A)(2) of this 22451
section. 22452

Counties shall use amounts retained under division (A)(3) of 22453
this section to provide funds to city or general health districts 22454
of the county with which the districts shall conduct outreach 22455
activities to increase participation in the program for medically 22456
handicapped children. 22457

(4) Prior to any increase in the millage charged to a county, 22458
the public health council shall hold a public hearing on the 22459
proposed increase and shall give notice of the hearing to each 22460
board of county commissioners that would be affected by the 22461
increase at least thirty days prior to the date set for the 22462
hearing. Any county commissioner may appear and give testimony at 22463
the hearing. Any increase in the millage any county is required to 22464
provide for the program for medically handicapped children shall 22465
be determined, and notice of the amount of the increase shall be 22466
provided to each affected board of county commissioners, no later 22467
than the first day of June of the fiscal year next preceding the 22468
fiscal year in which the increase will take effect. 22469

(B) Each board of county commissioners shall establish a 22470
medically handicapped children's fund and shall appropriate 22471
thereto an amount, determined in accordance with division (A)(1) 22472
of this section, for the county's share in providing medical, 22473

surgical, and other aid to medically handicapped children residing 22474
in such county and for the purposes specified in divisions (A)(2) 22475
and (3) of this section. Each county shall use money retained 22476
under divisions (A)(2) and (3) of this section only for the 22477
purposes specified in those divisions. 22478

Sec. 3701.029. Subject to available funds, the department of 22479
health shall establish and administer a hemophilia program to 22480
provide payment of health insurance premiums for Ohio residents 22481
who meet all of the following requirements: 22482

(A) Have been diagnosed with hemophilia or a related bleeding 22483
disorder; 22484

(B) Are at least twenty-one years of age; 22485

(C) Meet the eligibility requirements established by rules 22486
adopted under division (A)(12) of section 3701.021 of the Revised 22487
Code. 22488

~~Sec. 3701.145~~ 3701.0210. The ~~director of health~~ medically 22489
handicapped children's medical advisory council shall ~~establish~~ 22490
appoint a hemophilia advisory ~~council~~ subcommittee to advise the 22491
director ~~and the department~~ of health and council on all matters 22492
pertaining to the care and treatment of persons with hemophilia. 22493
The ~~council~~ subcommittee shall consist of not fewer than ~~nineteen~~ 22494
fifteen members, each of whom shall be appointed ~~by the director~~ 22495
to terms of four years. The members of the ~~council~~ subcommittee 22496
shall elect a chairperson from among the appointed membership to 22497
serve a term of two years. Members of the ~~council~~ subcommittee 22498
shall serve without compensation, except that they may be 22499
reimbursed for travel expenses to and from meetings of the ~~council~~ 22500
subcommittee. 22501

Members shall be appointed to represent all geographic areas 22502
of this state. Not fewer than five members of the ~~council~~ 22503

subcommittee shall be persons with hemophilia or family members of 22504
persons with hemophilia. Not fewer than five members shall be 22505
providers of health care services to persons with hemophilia. Not 22506
fewer than five members shall be experts in fields of importance 22507
to treatment of persons with hemophilia, including experts in 22508
infectious diseases, insurance, and law. 22509

~~The council shall submit to the director of health, the 22510
governor, and the general assembly, a report no later than the 22511
thirtieth day of September of each year summarizing the current 22512
status and needs of persons in this state with hemophilia and of 22513
family members of persons with hemophilia. 22514~~

Notwithstanding section 101.83 of the Revised Code, that 22515
section does not apply to the medically handicapped children's 22516
medical advisory council hemophilia advisory subcommittee, and the 22517
subcommittee shall not expire under that section. 22518

Sec. 3701.141. (A) There is hereby created in the department 22519
of health the ~~office of women's health initiatives~~ program, 22520
~~consisting of the chief of the office and an administrative 22521
assistant. To the extent of available funds, other positions 22522
determined necessary and relevant by the director of health may be 22523
added. The administrative assistant and all other employees 22524
assigned to the office shall report to the chief and the chief to 22525
the director or the deputy specified by the director. 22526~~

(B) To the extent funds are available, the ~~office of women's 22527
health initiatives~~ program shall: 22528

(1) Identify, review, and assist the director in the 22529
coordination of programs and resources the department of health is 22530
committing to women's health concerns, including the department's 22531
women's and infants' program activities; 22532

(2) Advocate for women's health by requesting that the 22533

department conduct, sponsor, encourage, or fund research; 22534
establish additional programs regarding women's health concerns as 22535
needed; and monitor the research and program efforts; 22536

(3) Collect, classify, and store relevant research conducted 22537
by the department or other entities, and provide, unless otherwise 22538
prohibited by law, interested persons access to research results; 22539

(4) ~~Generate~~ Apply for grant ~~activities~~ opportunities. 22540

~~(C) Prior to the director's report to the governor on the 22541
department's biennial budget request, the office of women's health 22542
initiatives shall submit in writing to the director of health a 22543
biennial report of recommended programs, projects, and research to 22544
address critical issues in women's health. 22545~~

Sec. 3701.46. In reporting every birth ~~and, still birth, or~~ 22546
fetal death, physicians and others required to make the reports 22547
shall state on the birth, still birth, or fetal death certificate, 22548
~~as the case may be,~~ whether approved tests for syphilis and 22549
gonorrhoea have been made in an approved laboratory upon specimens 22550
taken from the woman who bore the child for which the certificate 22551
is filed, and the approximate date when the specimens were taken. 22552
If the tests were not made, the physician or other person shall 22553
state the reasons why the tests were not made. In no event shall 22554
the results of the tests be stated on the ~~birth or fetal death~~ 22555
certificate. 22556

Sec. 3701.61. (A) The department of health shall establish 22557
the help me grow program for the purpose of encouraging early 22558
prenatal and well-baby care. The program shall include 22559
distributing subsidies to counties to provide the following 22560
services: 22561

(1) Home-visiting services to newborn infants and their 22562
families; 22563

(2) Services to infants and toddlers under three years of age who are at risk for, or who have, a developmental delay or disability and their families. 22564
22565
22566

(B) The department shall not provide home-visiting services under the help me grow program unless requested in writing by a parent of the infant or toddler. 22567
22568
22569

(C) Pursuant to Chapter 119. of the Revised Code, the department shall adopt rules that are necessary and proper to implement this section. 22570
22571
22572

Sec. 3702.31. (A) The quality monitoring and inspection fund is hereby created in the state treasury. The director of health shall use the fund to administer and enforce this section and sections 3702.11 to 3702.20, 3702.30, and 3702.32 of the Revised Code and rules adopted pursuant to those sections. The director shall deposit in the fund any moneys collected pursuant to this section or section 3702.32 of the Revised Code. All investment earnings of the fund shall be credited to the fund. 22573
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(B) The director of health shall adopt rules pursuant to Chapter 119. of the Revised Code establishing fees for both of the following: 22581
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22583

(1) Initial and renewal license applications submitted under section 3702.30 of the Revised Code. The fees established under division (B)(1) of this section shall not exceed the actual and necessary costs of performing the activities described in division (A) of this section. 22584
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(2) Inspections conducted under section 3702.15 or 3702.30 of the Revised Code. The fees established under division (B)(2) of this section shall not exceed the actual and necessary costs incurred during an inspection, including any indirect costs incurred by the department for staff, salary, or other 22589
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administrative costs. The director of health shall provide to each 22594
health care facility or provider inspected pursuant to section 22595
3702.15 or 3702.30 of the Revised Code a written statement of the 22596
fee. The statement shall itemize and total the costs incurred. 22597
Within fifteen days after receiving a statement from the director, 22598
the facility or provider shall forward the total amount of the fee 22599
to the director. 22600

(3) The fees described in divisions (B)(1) and (2) of this 22601
section shall meet both of the following requirements: 22602

(a) For each service described in section 3702.11 of the 22603
Revised Code, the fee shall not exceed one thousand ~~two~~ seven 22604
hundred fifty dollars annually, except that the total fees charged 22605
to a health care provider under this section shall not exceed five 22606
thousand dollars annually. 22607

(b) The fee shall exclude any costs reimbursable by the 22608
United States health care financing administration as part of the 22609
certification process for the medicare program established under 22610
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 22611
U.S.C.A. 301, as amended, and the medicaid program established 22612
under Title XIX of that act. 22613

(4) The director shall not establish a fee for any service 22614
for which a licensure or inspection fee is paid by the health care 22615
provider to a state agency for the same or similar licensure or 22616
inspection. 22617

Sec. 3702.63. As specified in former Section 11 of Am. Sub. 22618
S.B. 50 of the 121st general assembly, as amended by Am. Sub. H.B. 22619
405 of the 124th general assembly, all of the following apply: 22620

(A) The removal of former divisions (E) and (F) of section 22621
3702.52 of the Revised Code by Sections 1 and 2 of Am. Sub. S.B. 22622
50 of the 121st general assembly does not release the holders of 22623

certificates of need issued under those divisions from complying 22624
with any conditions on which the granting of the certificates of 22625
need was based, including the requirement of former division 22626
(E)(6) of that section that the holders not enter into provider 22627
agreements under Chapter 5111. of the Revised Code and Title XIX 22628
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, 22629
as amended, for at least ten years following initial licensure of 22630
the long-term care facilities for which the certificates were 22631
granted. 22632

(B) The repeal of section 3702.55 of the Revised Code by 22633
Section 2 of Am. Sub. S.B. 50 of the 121st general assembly does 22634
not release the holders of certificates of need issued under that 22635
section from complying with any conditions on which the granting 22636
of the certificates of need was based, other than the requirement 22637
of division (A)(6) of that section that the holders not seek 22638
certification under Title XVIII of the "Social Security Act" for 22639
beds recategorized under the certificates. That repeal also does 22640
not eliminate the requirement that the director of health revoke 22641
the licensure of the beds under Chapter 3721. of the Revised Code 22642
if a person to which their ownership is transferred fails, as 22643
required by division (A)(6) of the repealed section, to file 22644
within ten days after the transfer a sworn statement not to seek 22645
certification under Title XIX of the "Social Security Act" for 22646
beds recategorized under the certificates of need. 22647

(C) The repeal of section 3702.56 of the Revised Code by 22648
Section 2 of Am. Sub. S.B. 50 of the 121st general assembly does 22649
not release the holders of certificates of need issued under that 22650
section from complying with any conditions on which the granting 22651
of the certificates of need was based. 22652

Sec. 3702.68. (A) Notwithstanding sections 3702.51 to 3702.62 22653
of the Revised Code, this section applies to the review of 22654

certificate of need applications during the period beginning July 1, 1993, and ending June 30, ~~2003~~ 2005.

(B)(1) Except as provided in division (B)(2) of this section, the director of health shall neither grant nor deny any application for a certificate of need submitted prior to July 1, 1993, if the application was for any of the following and the director had not issued a written decision concerning the application prior to that date:

(a) Approval of beds in a new health care facility or an increase of beds in an existing health care facility, if the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code;

(b) Approval of beds in a new county home or new county nursing home as defined in section 5155.31 of the Revised Code, or an increase of beds in an existing county home or existing county nursing home, if the beds are proposed to be certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(c) Recategorization of hospital beds as described in section 3702.522 of the Revised Code, an increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as long-term care beds or skilled nursing facility beds, or a recategorization of hospital beds that would result in an increase of beds registered pursuant to that section as long-term care beds or skilled nursing facility beds.

On July 1, 1993, the director shall return each such application to the applicant and, notwithstanding section 3702.52 of the Revised Code regarding the uses of the certificate of need fund, shall refund to the applicant the application fee paid under that section. Applications returned under division (B)(1) of this

section may be resubmitted in accordance with section 3702.52 of 22686
the Revised Code no sooner than July 1, ~~2003~~ 2005. 22687

(2) The director shall continue to review and shall issue a 22688
decision regarding any application submitted prior to July 1, 22689
1993, to increase beds for either of the purposes described in 22690
division (B)(1)(a) or (b) of this section if the proposed increase 22691
in beds is attributable solely to a replacement or relocation of 22692
existing beds within the same county. The director shall authorize 22693
under such an application no additional beds beyond those being 22694
replaced or relocated. 22695

(C)(1) Except as provided in division (C)(2) of this section, 22696
the director, during the period beginning July 1, 1993, and ending 22697
June 30, ~~2003~~ 2005, shall not accept for review under section 22698
3702.52 of the Revised Code any application for a certificate of 22699
need for any of the purposes described in divisions (B)(1)(a) to 22700
(c) of this section. 22701

(2) The director shall accept for review any application for 22702
either of the purposes described in division (B)(1)(a) or (b) of 22703
this section if the proposed increase in beds is attributable 22704
solely to a replacement or relocation of existing beds within the 22705
same county. The director shall authorize under such an 22706
application no additional beds beyond those being replaced or 22707
relocated. The director also shall accept for review any 22708
application that seeks certificate of need approval for existing 22709
beds located in an infirmary that is operated exclusively by a 22710
religious order, provides care exclusively to members of religious 22711
orders who take vows of celibacy and live by virtue of their vows 22712
within the orders as if related, and was providing care 22713
exclusively to members of such a religious order on January 1, 22714
1994. 22715

(D) The director shall issue a decision regarding any case 22716
remanded by a court as the result of a decision issued by the 22717

director prior to July 1, 1993, to grant, deny, or withdraw a 22718
certificate of need for any of the purposes described in divisions 22719
(B)(1)(a) to (c) of this section. 22720

(E) The director shall not project the need for beds listed 22721
in division (B)(1) of this section for the period beginning July 22722
1, 1993, and ending June 30, ~~2003~~ 2005. 22723

This section is an interim section effective until July 1, 22724
~~2003~~ 2005. 22725

Sec. 3702.74. (A) A primary care physician who has signed a 22726
letter of intent under section 3702.73 of the Revised Code, the 22727
director of health, and the Ohio board of regents may enter into a 22728
contract for the physician's participation in the physician loan 22729
repayment program. A lending institution may also be a party to 22730
the contract. 22731

(B) The contract shall include all of the following 22732
obligations: 22733

(1) The primary care physician agrees to provide primary care 22734
services in the health resource shortage area identified in the 22735
letter of intent for at least two years or one year per twenty 22736
thousand dollars of repayment agreed to under division (B)(3) of 22737
this section, whichever is greater; 22738

(2) When providing primary care services in the health 22739
resource shortage area, the primary care physician agrees to do 22740
all of the following: 22741

(a) Provide primary care services for a minimum of forty 22742
hours per week; 22743

(b) Provide primary care services without regard to a 22744
patient's ability to pay; 22745

(c) Meet the conditions prescribed by the "Social Security 22746
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the 22747

department of job and family services for participation in the 22748
medical assistance program established under Chapter 5111. of the 22749
Revised Code and enter into a contract with the department to 22750
provide primary care services to recipients of the medical 22751
assistance program; 22752

(d) Meet the conditions established by the department of job 22753
and family services for participation in the disability ~~assistance~~ 22754
medical assistance program established under Chapter 5115. of the 22755
Revised Code and enter into a contract with the department to 22756
provide primary care services to recipients of disability medical 22757
assistance. 22758

(3) The Ohio board of regents agrees, as provided in section 22759
3702.75 of the Revised Code, to repay, so long as the primary care 22760
physician performs the service obligation agreed to under division 22761
(B)(1) of this section, all or part of the principal and interest 22762
of a government or other educational loan taken by the primary 22763
care physician for expenses described in section 3702.75 of the 22764
Revised Code; 22765

(4) The primary care physician agrees to pay the board the 22766
following as damages if the physician fails to complete the 22767
service obligation agreed to under division (B)(1) of this 22768
section: 22769

(a) If the failure occurs during the first two years of the 22770
service obligation, three times the total amount the board has 22771
agreed to repay under division (B)(3) of this section; 22772

(b) If the failure occurs after the first two years of the 22773
service obligation, three times the amount the board is still 22774
obligated to repay under division (B)(3) of this section. 22775

(C) The contract may include any other terms agreed upon by 22776
the parties, including an assignment to the Ohio board of regents 22777
of the physician's duty to pay the principal and interest of a 22778

government or other educational loan taken by the physician for 22779
expenses described in section 3702.75 of the Revised Code. If the 22780
board assumes the physician's duty to pay a loan, the contract 22781
shall set forth the total amount of principal and interest to be 22782
paid, an amortization schedule, and the amount of each payment to 22783
be made under the schedule. 22784

Sec. 3705.01. As used in this chapter: 22785

(A) "Live birth" means the complete expulsion or extraction 22786
from its mother of a product of human conception that after such 22787
expulsion or extraction breathes or shows any other evidence of 22788
life such as beating of the heart, pulsation of the umbilical 22789
cord, or definite movement of voluntary muscles, whether or not 22790
the umbilical cord has been cut or the placenta is attached. 22791

(B) "Fetal death" means death caused by abortion prior to the 22792
complete expulsion or extraction from its mother of a product of 22793
human conception of at least twenty weeks of gestation, ~~which~~ 22794
~~after such expulsion or extraction does not breathe or show any~~ 22795
~~other evidence of life such as beating of the heart, pulsation of~~ 22796
~~the umbilical cord, or definite movement of voluntary muscles.~~ 22797

(C) "Still birth" means death prior to the complete expulsion 22798
or extraction from its mother of a product of human conception of 22799
at least twenty weeks of gestation, which after expulsion or 22800
extraction does not breathe or show any other evidence of life 22801
such as beating of the heart, pulsation of the umbilical cord, or 22802
definitive movement of the voluntary muscles. 22803

(D) "Dead body" means a human body or part of a human body 22804
from the condition of which it reasonably may be concluded that 22805
death recently occurred. 22806

~~(D)~~(E) "Physician" means a person licensed pursuant to 22807
Chapter 4731. of the Revised Code to practice medicine or surgery 22808

or osteopathic medicine and surgery. 22809

~~(E)~~(F) "Attending physician" means the physician in charge of 22810
the patient's care for the illness or condition that resulted in 22811
death. 22812

~~(F)~~(G) "Institution" means any establishment, public or 22813
private, that provides medical, surgical, or diagnostic care or 22814
treatment, or domiciliary care, to two or more unrelated 22815
individuals, or to persons committed by law. 22816

~~(G)~~(H) "Funeral director" has the meaning given in section 22817
4717.01 of the Revised Code. 22818

~~(H)~~(I) "State registrar" means the head of the office of 22819
vital statistics in the department of health. 22820

~~(I)~~(J) "Medical certification" means completion of the 22821
medical certification portion of the certificate of death ~~or~~, 22822
fetal death, or still birth as to the cause of death ~~or~~, fetal 22823
death, or still birth. 22824

~~(J)~~(K) "Final disposition" means the interment, cremation, 22825
removal from the state, donation, or other authorized disposition 22826
of a dead body ~~or a~~, fetal death, or still birth. 22827

~~(K)~~(L) "Interment" means the final disposition of the remains 22828
of a dead body by burial or entombment. 22829

~~(L)~~(M) "Cremation" means the reduction to ashes of a dead 22830
body. 22831

~~(M)~~(N) "Donation" means gift of a dead body to a research 22832
institution or medical school. 22833

~~(N)~~(O) "System of vital statistics" means the registration, 22834
collection, preservation, amendment, and certification of vital 22835
records, the collection of other reports required by this chapter, 22836
and activities related thereto. 22837

~~(O)~~(P) "Vital records" means certificates or reports of 22838

birth, ~~death~~, still birth, fetal death, death, marriage, divorce, 22839
dissolution of marriage, annulment, and data related thereto and 22840
other documents maintained as required by statute. 22841

~~(P)~~(O) "File" means the presentation of vital records for 22842
registration by the office of vital statistics. 22843

~~(Q)~~(R) "Registration" means the acceptance by the office of 22844
vital statistics and the incorporation of vital records into its 22845
official records. 22846

~~(R)~~(S) "Birth record" means a birth certificate that has been 22847
registered with the office of vital statistics; or, if registered 22848
prior to the effective date of this section, with the division of 22849
vital statistics; or, if registered prior to the establishment of 22850
the division of vital statistics, with the department of health or 22851
a local registrar. 22852

~~(S)~~(T) "Certification of birth" means a document issued by 22853
the director of health or state registrar or a local registrar 22854
under division (B) of section 3705.23 of the Revised Code. 22855

Sec. 3705.02. A statewide system of registration of births, 22856
still births, fetal deaths, deaths, ~~fetal deaths~~, and other vital 22857
statistics is hereby established, which ~~shall consist~~ consists of 22858
the office of vital statistics in the department of health and 22859
primary registration districts. The office of vital statistics 22860
shall be maintained at the capital of the state and shall be 22861
provided with sufficient staff, suitable offices, and other 22862
resources for the proper administration of the system of vital 22863
statistics and for the preservation of its official records. The 22864
director of health shall have charge of the system of vital 22865
statistics, enforce sections 3705.01 to 3705.29 of the Revised 22866
Code, and prepare and issue instructions necessary to secure the 22867
uniform observance of ~~such~~ those sections. The director shall 22868
adopt rules as necessary to ~~insure~~ ensure that this state shall 22869

have a complete and accurate registration of vital statistics. No 22870
system of registration of births, ~~deaths~~, still births, fetal 22871
deaths, deaths, or other vital statistics shall be maintained in 22872
any political subdivision in conflict with ~~such~~ those sections. 22873

Sec. 3705.06. The local registrar of vital statistics shall 22874
supply blank forms of certificates and instructions to such 22875
persons as require them, and shall require each birth, still 22876
birth, fetal death, or death certificate, when presented for 22877
filing, to be made out in accordance with sections 3705.01 to 22878
3705.29 of the Revised Code, the rules adopted by the director of 22879
health, and the registration instructions of the director. If a 22880
birth, still birth, fetal death, or death certificate is 22881
incomplete or unsatisfactory, the local registrar shall indicate 22882
the defects therein and withhold registering the certificate or 22883
issuing a burial permit until such certificate is corrected. 22884

Sec. 3705.07. (A) The local registrar of vital statistics 22885
shall number consecutively the birth, still birth, fetal death, 22886
and death certificates in ~~three~~ four separate series, beginning 22887
with "number one" for the first birth, the first still birth, the 22888
first fetal death, and the first death registered in each calendar 22889
year. Such local registrar shall sign the local registrar's name 22890
in attest to the date of filing in the local office. The local 22891
registrar shall make a complete and accurate copy of each birth, 22892
still birth, fetal death, and death certificate registered. Each 22893
copy shall be filed and permanently preserved as the local record 22894
of such birth, still birth, fetal death, or death except as 22895
provided in sections 3705.09 and 3705.12 of the Revised Code. The 22896
local record may be a typewritten, photographic, electronic, or 22897
other reproduction. On or before the tenth day of each month, the 22898
local registrar shall transmit to the state office of vital 22899
statistics all original birth, still birth, fetal death, death, 22900

and military service certificates received, and all social 22901
security numbers obtained under section 3705.09, 3705.10, or 22902
3705.16 of the Revised Code, during the preceding month. The local 22903
registrar shall immediately notify the health commissioner with 22904
jurisdiction in the registration district of the receipt of a 22905
death certificate attesting that death resulted from a 22906
communicable disease. 22907

The office of vital statistics shall carefully examine the 22908
records and certificates received from local registrars of vital 22909
statistics and shall secure any further information that may be 22910
necessary to make each record and certificate complete and 22911
satisfactory. It shall arrange and preserve the records and 22912
certificates, or reproductions of them produced pursuant to 22913
section 3705.03 of the Revised Code, in a systematic manner and 22914
shall maintain a permanent index of all births, still births, 22915
fetal deaths, and deaths registered, which shall show the name of 22916
the child or deceased person, place and date of birth or death, 22917
number of the record or certificate, and the volume in which it is 22918
contained. 22919

(B)(1) The office of vital statistics shall make available to 22920
the division of child support in the department of job and family 22921
services all social security numbers that were furnished to a 22922
local registrar of vital statistics under division (I) of section 22923
3705.09 or under section 3705.10 or 3705.16 of the Revised Code 22924
and that were transmitted to the office under division (A) of this 22925
section. 22926

(2) The office of vital statistics also shall make available 22927
to the division of child support in the department of job and 22928
family services any other information recorded in the birth record 22929
that may enable the division to use the social security numbers 22930
provided under division (B)(1) of this section to obtain the 22931
location of the father of the child whose birth certificate was 22932

accompanied by the social security number or to otherwise enforce 22933
a child support order pertaining to that child or any other child. 22934

Sec. 3705.08. The director of health, by rule, shall 22935
prescribe the form of records and certificates required by this 22936
chapter. Records and certificates shall include the items and 22937
information prescribed by the director, including the items 22938
recommended by the national center for health statistics of the 22939
United States department of health and human services, subject to 22940
approval of and modification by the director, and all birth 22941
certificates shall include a statement setting forth the names of 22942
the child's parents and a line for the mother's and the father's 22943
signature. 22944

The director shall prescribe methods, forms, and blanks and 22945
shall furnish necessary postage, forms, and blanks for obtaining 22946
registration of births, deaths, and other vital statistics in each 22947
registration district, and for preserving the records of the 22948
office of vital statistics, and no forms or blanks shall be used 22949
other than those prescribed by the director. 22950

All birth, still birth, fetal death, and death records and 22951
certificates shall be printed legibly or typewritten in unfading 22952
black ink and signed. Except as provided in division (G) of 22953
section 3705.09, division (A) of section 3705.12, division (D) of 22954
section 3705.15, or section 3705.16 of the Revised Code, a 22955
signature required on a birth, still birth, fetal death, or death 22956
certificate shall be written by the person required to sign and a 22957
facsimile signature shall not be used. 22958

All vital records shall contain the date received for 22959
registration. 22960

Information required in certificates, records, or reports 22961
authorized by this chapter may be filed and registered by 22962
photographic, electronic, or other means as prescribed by the 22963

director. 22964

Sec. 3705.16. Each death, still birth, or fetal death that 22965
occurs in this state shall be registered with the local registrar 22966
of vital statistics of the district in which the death, still 22967
birth, or fetal death occurred by the funeral director or other 22968
person in charge of the final disposition of the remains. The 22969
personal and statistical information in the death, still birth, or 22970
fetal death certificate shall be obtained from the best qualified 22971
persons or sources available by the funeral director or other 22972
person in charge of the final disposition of the remains. The 22973
statement of facts relating to the disposition of the body and 22974
information relative to the armed services referred to in section 22975
3705.19 of the Revised Code shall be signed by the funeral 22976
director or other person in charge of the final disposition of the 22977
remains. The funeral director or other person in charge of the 22978
final disposition of the remains shall then present the death 22979
certificate to the physician or coroner for certification of the 22980
cause of death. The medical certificate of death shall be 22981
completed and signed by the physician who attended the deceased or 22982
by the coroner within forty-eight hours after death. The coroner 22983
may satisfy the requirement of signing a death certificate showing 22984
the cause of death as pending either by stamping it with a stamp 22985
of the coroner's signature or by signing it in the coroner's own 22986
hand, but the coroner shall sign a death certificate or 22987
supplementary medical certification in the coroner's own hand. Any 22988
death certificate registered pursuant to this section shall 22989
contain the social security number of the decedent, if available. 22990
A social security number obtained under this section is a public 22991
record under section 149.43 of the Revised Code. 22992

Sec. 3705.17. The body of a person whose death occurs in this 22993
state shall not be interred, deposited in a vault or tomb, 22994

cremated, or otherwise disposed of by a funeral director until a 22995
burial permit is issued by a local registrar or sub-registrar of 22996
vital statistics. No such permit shall be issued by a local 22997
registrar or sub-registrar until a satisfactory death, still 22998
birth, fetal death, or provisional death certificate is filed with 22999
the local registrar or sub-registrar. When the medical 23000
certification as to the cause of death cannot be provided by the 23001
attending physician or coroner prior to burial, for sufficient 23002
cause, as determined by rule of the director of health, the 23003
funeral director may file a provisional death certificate with the 23004
local registrar or sub-registrar for the purpose of securing a 23005
burial or burial-transit permit. When the funeral director files a 23006
provisional death certificate to secure a burial or burial-transit 23007
permit, the funeral director shall file a satisfactory and 23008
complete death certificate within five days after the date of 23009
death. The director of health, by rule, may provide additional 23010
time for filing a satisfactory death certificate. A burial permit 23011
authorizing cremation shall not be issued upon the filing of a 23012
provisional certificate of death. 23013

When a funeral director or other person obtains a burial 23014
permit from a local registrar or sub-registrar, the registrar or 23015
sub-registrar shall charge a fee of three dollars for the issuance 23016
of the burial permit. Two dollars and fifty cents of each fee 23017
collected for a burial permit shall be paid into the state 23018
treasury to the credit of the division of real estate in the 23019
department of commerce to be used by the division in discharging 23020
its duties prescribed in Chapter 4767. of the Revised Code and the 23021
Ohio cemetery dispute resolution commission created by section 23022
4767.05 of the Revised Code. A local registrar or sub-registrar 23023
shall transmit payments of that portion of the amount of each fee 23024
collected under this section to the treasurer of state on a 23025
quarterly basis or more frequently, if possible. The director of 23026
health, by rule, shall provide for the issuance of a burial permit 23027

without the payment of the fee required by this section if the 23028
total cost of the burial will be paid by an agency or 23029
instrumentality of the United States, the state or a state agency, 23030
or a political subdivision of the state. 23031

The director of commerce may by rule adopted in accordance 23032
with Chapter 119. of the Revised Code reduce the total amount of 23033
the fee required by this section and that portion of the amount of 23034
the fee required to be paid to the credit of the division of real 23035
estate for the use of the division and the Ohio cemetery dispute 23036
resolution commission, if the director determines that the total 23037
amount of funds the fee is generating at the amount required by 23038
this section exceeds the amount of funds the division of real 23039
estate and the commission need to carry out their powers and 23040
duties prescribed in Chapter 4767. of the Revised Code. 23041

No person in charge of any premises in which interments or 23042
cremations are made shall inter or cremate or otherwise dispose of 23043
a body, unless it is accompanied by a burial permit. Each person 23044
in charge of a cemetery, crematory, or other place of disposal 23045
shall indorse upon a burial permit the date of interment, 23046
cremation, or other disposal and shall retain such permits for a 23047
period of at least five years. The person in charge shall keep an 23048
accurate record of all interments, cremations, or other disposal 23049
of dead bodies, made in the premises under the person's charge, 23050
stating the name of the deceased person, place of death, date of 23051
burial, cremation, or other disposal, and name and address of the 23052
funeral director. Such record shall at all times be open to public 23053
inspection. 23054

Sec. 3705.201. A still birth shall be registered on a still 23055
birth certificate. A still birth that occurs in Ohio shall not be 23056
interred, deposited in a vault or tomb, cremated, or otherwise 23057
disposed of by a funeral director or other person until a still 23058

birth certificate or provisional certificate has been filed with 23059
and a burial permit is issued by the local registrar of vital 23060
statistics of the registration district in which the still birth 23061
occurs, or the body is found. The department of health and the 23062
local registrar shall keep a separate record and index record of 23063
still birth certificates. 23064

The personal or statistical information on the still birth 23065
certificate shall be obtained by the funeral director or other 23066
person in charge of interment or cremation from the best qualified 23067
persons or sources available. 23068

Sec. 3705.22. Whenever it is alleged that the facts stated in 23069
any birth, still birth, fetal death, or death record filed in the 23070
department of health are not true, the director may require 23071
satisfactory evidence to be presented in the form of affidavits, 23072
amended records, or certificates to establish the alleged facts. 23073
When established, the original record or certificate shall be 23074
supplemented by the affidavit or the amended certificate or record 23075
information. 23076

An affidavit in a form prescribed by the director shall be 23077
sworn to by a person having personal knowledge of the matter 23078
sought to be corrected. Medical certifications contained on still 23079
birth, fetal death, or death records may be corrected only by the 23080
person whose name appears on the original record as attending 23081
physician or by the coroner of the county in which the death 23082
occurred. 23083

The amended birth record shall be signed by the person who 23084
attended the birth and the informant or informants whose names 23085
appear on the original record. The amended ~~death or~~ still birth, 23086
fetal death, or death record shall be signed by the physician or 23087
coroner, funeral director, and informant whose names appear on the 23088
original record. 23089

An affidavit or amended record for the correction of the given name of a person shall have the signature of the person, if the person is age eighteen or older, or of both parents if the person is under eighteen, except that in the case of a child born out of wedlock, the mother's signature will suffice; in the case of the death or incapacity of either parent, the signature of the other parent will suffice; in the case of a child not in the custody of ~~his~~ the child's parents, the signature of the guardian or agency having the custody of the child will suffice; and in the case of a child whose parents are deceased, the signature of another person who knows the child will suffice.

Once a correction or amendment of an item is made on a vital record, that item shall not be corrected or amended again except on the order of a court of this state or the request of a court of another state or jurisdiction.

The director may refuse to accept an affidavit or amended certificate or record that appears to be submitted for the purpose of falsifying the certificate or record.

A certified copy of a certificate or record issued by the department of health shall show the information as originally given and the corrected information, except that an electronically produced copy need indicate only that the certificate or record was corrected and the item that was corrected.

Sec. 3705.23. (A)(1) Except as otherwise provided in this section, the director of health, the state registrar, or a local registrar, on receipt of a signed application and the fee specified in section 3705.24 of the Revised Code, shall issue a certified copy of a vital record, or of a part of a vital record, in the director's or registrar's custody to any applicant, unless the vital record has ceased to be a public record pursuant to section 3705.09, 3705.11, 3705.12, or 3705.15 of the Revised Code.

The certified copy shall show the date the vital record was 23121
registered by the local registrar. 23122

(2) A certified copy of a vital record may be made by a 23123
mechanical, electronic, or other reproduction process. It shall be 23124
certified as a true copy by the director, state registrar, or 23125
local registrar who has custody of the record and shall include 23126
the date of issuance, the name of the issuing officer, the 23127
signature of the officer or an authorized facsimile of the 23128
signature, and the seal of the issuing office. 23129

(3) A certified copy of a vital record or of any part of a 23130
vital record, issued in accordance with this section, shall be 23131
considered for all purposes the same as the original and shall be 23132
prima-facie evidence of the facts stated in it in all courts and 23133
places. 23134

(4)(a) Information contained in the "information for medical 23135
and health use only" section of a birth record shall not be 23136
included as part of a certified copy of the birth record unless 23137
the information specifically is requested by the individual to 23138
whose birth the record attests, either of the individual's parents 23139
or the individual's guardian, a lineal descendant, or an official 23140
of the federal or state government or of a political subdivision 23141
of the state charged by law with detecting or prosecuting crime. 23142

(b) Except as provided in division (A)(4)(a) of this section, 23143
neither the office of vital statistics nor a local registrar shall 23144
disclose information contained in the "information for medical and 23145
health use only" section of a birth record unless a court, for 23146
good cause shown, orders disclosure of the information or the 23147
state registrar specifically authorizes release of the information 23148
for statistical or research purposes under conditions the state 23149
registrar, subject to the approval of the director of health, 23150
shall establish by rule. 23151

(B)(1) Unless the applicant specifically requests a certified copy, the director, the state registrar, or a local registrar, on receipt of a signed application for a birth record and the fee specified in section 3705.24 of the Revised Code, may issue a certification of birth, and the certification of birth shall contain at least the name, sex, date of birth, registration date, and place of birth of the person to whose birth the record attests and shall attest that the person's birth has been registered. A certification of birth shall be prima-facie evidence of the facts stated in it in all courts and places.

(2) The director or the state registrar, on the receipt of a signed application for an heirloom certification of birth and the fee specified in section 3705.24 of the Revised Code, may issue an heirloom certification of birth. The director shall prescribe by rule guidelines for the form of an heirloom certification of birth, and the guidelines shall require the heirloom certification of birth to contain at least the name, sex, date of birth, registration date, and place of birth of the person to whose birth the record attests and to attest that the person's birth has been registered. An heirloom certification of birth shall be prima-facie evidence of the facts stated in it in all courts and places.

(C) On evidence that a birth certificate was registered through misrepresentation or fraud, the state registrar may withhold the issuance of a certified copy of the birth record or a certification of birth until a court makes a determination that no misrepresentation or fraud occurred.

~~(D) Except as provided in division (A)(4)(b) of this section, the state registrar and a local registrar, on request, shall provide uncertified copies of vital records in accordance with section 149.43 of the Revised Code.~~

~~Sec. 3705.24. (A) Except as otherwise provided in this 23183
division or division (C) of this section, the fee for a certified 23184
copy of a vital record or for a certification of birth shall be 23185
seven dollars plus any fee required by section 3109.14 of the 23186
Revised Code. Except as provided in section 3705.241 of the 23187
Revised Code, the fee for a certified copy of a vital record or 23188
for a certification of birth issued by the office of vital 23189
statistics shall be an amount prescribed by the public health 23190
council plus any fee required by section 3109.14 of the Revised 23191
Code. The fee for a certified copy of a vital record or for a 23192
certification of birth issued by a health district shall be an 23193
amount prescribed in accordance with section 3709.09 of the 23194
Revised Code plus any fee required by section 3109.14 of the 23195
Revised Code. No certified copy of a vital record or certification 23196
of birth shall be issued without payment of the fee unless 23197
otherwise specified by statute. 23198~~

~~For a special search of the files and records to determine a 23199
date or place contained in a record on file, the office of vital 23200
statistics shall charge a fee of three dollars for each hour or 23201
fractional part of an hour required for the search. 23202~~

~~(B)(1) The public health council shall, in accordance with 23203
section 111.15 of the Revised Code, adopt rules prescribing fees 23204
for the following services provided by the state office of vital 23205
statistics: 23206~~

~~(a) Except as provided in division (A)(4) of this section: 23207~~

~~(i) A certified copy of a vital record or a certification of 23208
birth; 23209~~

~~(ii) A search by the office of vital statistics of its files 23210
and records pursuant to a request for information, regardless of 23211
whether a copy of a record is provided; 23212~~

<u>(iii) A copy of a record provided pursuant to a request;</u>	23213
<u>(b) Replacement of a birth certificate following an adoption,</u>	23214
<u>legitimation, paternity determination or acknowledgement, or court</u>	23215
<u>order;</u>	23216
<u>(c) Filing of a delayed registration of a vital record;</u>	23217
<u>(d) Amendment of a vital record that is requested later than</u>	23218
<u>one year after the filing date of the vital record;</u>	23219
<u>(e) Any other documents or services for which the public</u>	23220
<u>health council considers the charging of a fee appropriate.</u>	23221
<u>(2) Fees prescribed under division (A)(1)(a) of this section</u>	23222
<u>shall not be less than seven dollars.</u>	23223
<u>(3) Fees prescribed under division (A)(1) of this section</u>	23224
<u>shall be collected in addition to any fee required by section</u>	23225
<u>3109.14 of the Revised Code.</u>	23226
<u>(4) Fees prescribed under division (A) of this section shall</u>	23227
<u>not apply to certifications issued under division (H) of this</u>	23228
<u>section or copies provided under section 3705.241 of the Revised</u>	23229
<u>Code.</u>	23230
<u>(B) In addition to the fees prescribed under division (A) of</u>	23231
<u>this section or section 3709.09 of the Revised Code, the office of</u>	23232
<u>vital statistics or the board of health of a city or general</u>	23233
<u>health district shall charge a five-dollar fee for each certified</u>	23234
<u>copy of a vital record and each certification of birth. This fee</u>	23235
<u>shall be deposited in the general operations fund created under</u>	23236
<u>section 3701.83 of the Revised Code and be used solely toward the</u>	23237
<u>modernization and automation of the system of vital records in</u>	23238
<u>this state. A board of health shall forward all fees collected</u>	23239
<u>under this division to the department of health not later than</u>	23240
<u>thirty days after the end of each calendar quarter.</u>	23241
<u>(C) Except as otherwise provided in division (G)(H) of this</u>	23242

section, and except as provided in section 3705.241 of the Revised Code, fees collected by the director of health under sections 3705.01 to 3705.29 of the Revised Code shall be paid into the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. ~~Money~~ Except as provided in division (B) of this section, money generated by the fees shall be used only for administration and enforcement of this chapter and the rules adopted under it. Amounts submitted to the department of health for copies of vital records or services in excess of the fees imposed by this section shall be dealt with as follows:

(1) An overpayment of two dollars or less shall be retained by the department and deposited in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code.

(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment.

~~(C)~~(D) If a local registrar is a salaried employee of a city or a general health district, any fees the local registrar receives pursuant to section 3705.23 of the Revised Code shall be paid into the general fund of the city or the health fund of the general health district.

Each local registrar of vital statistics, or each health district where the local registrar is a salaried employee of the district, shall be entitled to a fee for each birth, still birth, fetal death, death, or military service certificate properly and completely made out and registered with the local registrar or district and correctly copied and forwarded to the office of vital statistics in accordance with the population of the primary registration district at the last federal census. The fee for each birth, still birth, fetal death, death, or military service certificate shall be:

(1) In primary registration districts of over two hundred fifty thousand, twenty cents;	23275 23276
(2) In primary registration districts of over one hundred twenty-five thousand and less than two hundred fifty thousand, sixty cents;	23277 23278 23279
(3) In primary registration districts of over fifty thousand and less than one hundred twenty-five thousand, eighty cents;	23280 23281
(4) In primary registration districts of less than fifty thousand, one dollar.	23282 23283
(D) <u>(E)</u> The director of health shall annually certify to the county treasurers of the several counties the number of birth, <u>still birth</u> , fetal death, death, and military service certificates registered from their respective counties with the names of the local registrars and the amounts due each registrar and health district at the rates fixed in this section. Such amounts shall be paid by the treasurer of the county in which the registration districts are located. No fees shall be charged or collected by registrars except as provided by this chapter and section 3109.14 of the Revised Code.	23284 23285 23286 23287 23288 23289 23290 23291 23292 23293
(E) <u>(F)</u> A probate judge shall be paid a fee of fifteen cents for each certified abstract of marriage prepared and forwarded by the probate judge to the department of health pursuant to section 3705.21 of the Revised Code. The fee shall be in addition to the fee paid for a marriage license and shall be paid by the applicants for the license.	23294 23295 23296 23297 23298 23299
(F) <u>(G)</u> The clerk of a court of common pleas shall be paid a fee of one dollar for each certificate of divorce, dissolution, and annulment of marriage prepared and forwarded by the clerk to the department pursuant to section 3705.21 of the Revised Code. The fee for the certified abstract of divorce, dissolution, or annulment of marriage shall be added to the court costs allowed in	23300 23301 23302 23303 23304 23305

these cases. 23306

~~(G)~~(H) The fee for an heirloom certification of birth issued 23307
pursuant to division (B)(2) of section 3705.23 of the Revised Code 23308
shall be an amount prescribed by rule by the director of health 23309
plus any fee required by section 3109.14 of the Revised Code. In 23310
setting the amount of the fee, the director shall establish a 23311
surcharge in addition to an amount necessary to offset the expense 23312
of processing heirloom certifications of birth. The fee prescribed 23313
by the director of health pursuant to this division shall be 23314
deposited into the state treasury to the credit of the heirloom 23315
certification of birth fund which is hereby created. Money 23316
credited to the fund shall be used by the office of vital 23317
statistics to offset the expense of processing heirloom 23318
certifications of birth. However, the money collected for the 23319
surcharge, subject to the approval of the controlling board, shall 23320
be used for the purposes specified by the family and children 23321
first council pursuant to section 121.37 of the Revised Code. 23322

Sec. 3705.26. Any person having knowledge of the facts shall 23323
furnish such information as ~~he~~ the person may possess regarding 23324
any birth, still birth, fetal death, or death upon demand of the 23325
state registrar. 23326

Sec. 3705.28. This chapter applies to all birth, still birth, 23327
fetal death, or death certificates and records, and reports of 23328
marriage, divorce, dissolution of marriage, or annulment of 23329
marriage received by the department of health prior to the 23330
effective date of this section and in the custody of the state 23331
registrar or a local registrar, but nothing in this chapter 23332
affects the validity of any certificate, record, or report created 23333
or filed prior to the effective date of this section. 23334

Sec. 3709.09. (A) The board of health of a city or general 23335

health district may, by rule, establish a uniform system of fees 23336
to pay the costs of any services provided by the board. Fees 23337

The fee for issuance of a certified copy of a vital record or 23338
a certification of birth shall not be less than the fee prescribed 23339
for the same service under division (A)(1) of section 3705.24 of 23340
the Revised Code and shall include the fees required by division 23341
(B) of section 3705.24 and section 3109.14 of the Revised Code. 23342

Fees for services provided by the board for purposes 23343
specified in sections 3701.344, 3711.05, 3730.03, 3733.04, 23344
3733.25, and 3749.04 of the Revised Code shall be established in 23345
accordance with rules adopted under division (B) of this section. 23346
The district advisory council, in the case of a general health 23347
district, and the legislative authority of the city, in the case 23348
of a city health district, may disapprove any fee established by 23349
the board of health under this division, and any such fee, as 23350
disapproved, shall not be charged by the board of health. 23351

(B) The public health council shall adopt rules under section 23352
111.15 of the Revised Code that establish fee categories and 23353
uniform methodologies for use in calculating the costs of services 23354
provided for purposes specified in sections 3701.344, 3711.05, 23355
3730.03, 3733.04, 3733.25, and 3749.04 of the Revised Code. In 23356
adopting the rules, the public health council shall consider 23357
recommendations it receives from advisory boards established 23358
either by statute or the director of health for entities subject 23359
to the fees. 23360

(C) At least thirty days prior to establishing a fee for a 23361
service provided by the board for a purpose specified in section 23362
3701.344, 3711.05, 3730.03, 3733.04, 3733.25, or 3749.04 of the 23363
Revised Code, a board of health shall notify any entity that would 23364
be affected by the proposed fee of the amount of the proposed fee. 23365

Sec. 3710.05. (A) Except as otherwise provided in this 23366

chapter, no person shall engage in any asbestos hazard abatement 23367
activities in this state unless licensed or certified pursuant to 23368
this chapter. 23369

(B) To apply for licensure as an asbestos abatement 23370
contractor or certification as an asbestos hazard abatement 23371
specialist, an asbestos hazard evaluation specialist, an asbestos 23372
hazard abatement project designer, or an asbestos hazard abatement 23373
air-monitoring technician, a person shall do all of the following: 23374

(1) Submit a completed application to the department of 23375
health, on a form provided by the department; 23376

(2) Pay the requisite fee as provided in division (D) of this 23377
section; 23378

(3) Submit any other information the public health council by 23379
rule requires. 23380

(C) The application form for a business entity or public 23381
entity applying for an asbestos hazard abatement contractor's 23382
license shall include all of the following: 23383

(1) A description of the protective clothing and respirators 23384
that the public entity will use to comply with rules adopted by 23385
the public health council and that the business entity will use to 23386
comply with requirements of the United States occupational safety 23387
and health administration; 23388

(2) A description of procedures the business entity or public 23389
entity will use for the selection, utilization, handling, removal, 23390
and disposal of clothing to prevent contamination or 23391
recontamination of the environment and to protect the public 23392
health from the hazards associated with exposure to asbestos; 23393

(3) The name and address of each asbestos disposal site that 23394
the business entity or public entity might use during the year; 23395

(4) A description of the site decontamination procedures that 23396

the business entity or public entity will use;	23397
(5) A description of the asbestos hazard abatement procedures that the business entity or public entity will use;	23398
(6) A description of the procedures that the business entity or public entity will use for handling waste containing asbestos;	23399
(7) A description of the air-monitoring procedures that the business entity or public entity will use to prevent contamination or recontamination of the environment and to protect the public health from the hazards of exposure to asbestos;	23400
(8) A description of the final clean-up procedures that the business entity or public entity will use;	23401
(9) A list of all partners, owners, and officers of the business entity along with their social security numbers;	23402
(10) The federal tax identification number of the business entity or the public entity.	23403
(D) The fees to be charged to each public entity and business entity and their employees and agents for licensure, certification, approval, and renewal of licenses, certifications, and approvals granted under this chapter, subject to division (A)(4) of section 3710.02 of the Revised Code, are:	23404
(1) Five <u>Seven</u> hundred fifty dollars for asbestos hazard abatement contractors;	23405
(2) One <u>Two</u> hundred twenty-five dollars for asbestos hazard abatement project designers;	23406
(3) Twenty-five <u>Fifty</u> dollars for asbestos hazard abatement workers;	23407
(4) One <u>Two</u> hundred twenty-five dollars for asbestos hazard abatement specialists;	23408
(5) One <u>Two</u> hundred twenty-five dollars for asbestos hazard	23409

evaluation specialists; and 23426

(6) ~~Seven~~ Nine hundred ~~fifty~~ dollars for approval or renewal 23427
of asbestos hazard training providers. 23428

(E) Notwithstanding division (A) of this section, no business 23429
entity which engages in asbestos hazard abatement activities 23430
solely at its own place of business is required to be licensed as 23431
an asbestos hazard abatement contractor provided that the business 23432
entity is required to and does comply with all applicable 23433
standards of the United States environmental protection agency and 23434
the United States occupational safety and health administration 23435
and provided further that all persons employed by the business 23436
entity on the activity meet the requirements of this chapter. 23437

Sec. 3711.021. For the purposes of this chapter, a maternity 23438
hospital or lying-in hospital includes a limited maternity unit, 23439
which is a unit in a hospital that contains no other maternity 23440
unit, in which care is provided during all or part of the 23441
maternity cycle and newborns receive care in a private room 23442
serving all antepartum, labor, delivery, recovery, postpartum, and 23443
nursery needs. 23444

The director of health may charge a maternity hospital or 23445
lying-in hospital seeking an initial or renewal license under this 23446
chapter a fee not exceeding the following: 23447

(A) ~~Three~~ Four thousand ~~eight hundred fifty~~ forty-two dollars 23448
for a hospital in which not less than two thousand births occurred 23449
the previous calendar year; 23450

(B) Three thousand ~~three~~ five hundred ~~fifty~~ seventeen dollars 23451
for a hospital in which not more than one thousand nine hundred 23452
ninety-nine and not less than one thousand births occurred the 23453
previous calendar year; 23454

(C) Two thousand ~~eight~~ nine hundred ~~fifty~~ ninety-two dollars 23455

for a hospital in which not more than nine hundred ninety-nine and 23456
not less than six hundred fifty births occurred the previous 23457
calendar year; 23458

(D) Two thousand ~~three~~ four hundred ~~fifty~~ sixty-seven dollars 23459
for a hospital in which not more than six hundred forty-nine and 23460
not less than four hundred fifty births occurred the previous 23461
calendar year; 23462

(E) One thousand ~~eight~~ nine hundred ~~fifty~~ forty-two dollars 23463
for a hospital in which not more than four hundred forty-nine 23464
births and not less than one hundred births occurred the previous 23465
calendar year; 23466

(F) One thousand ~~three~~ four hundred ~~fifty~~ seventeen dollars 23467
for a hospital in which not more than ninety-nine births occurred 23468
the previous calendar year. 23469

The director shall deposit all fees collected under this 23470
section into the general operations fund created under section 23471
3701.83 of the Revised Code. Money generated by the fees shall be 23472
used only for administration and enforcement of this chapter and 23473
rules adopted under it. 23474

Sec. 3717.42. (A) The following are not food service 23475
operations: 23476

(1) A retail food establishment licensed under this chapter, 23477
including a retail food establishment that provides the services 23478
of a food service operation pursuant to an endorsement issued 23479
under section 3717.24 of the Revised Code; 23480

(2) An entity exempt from the requirement to be licensed as a 23481
retail food establishment under division (B) of section 3717.22 of 23482
the Revised Code; 23483

(3) A business or that portion of a business that is 23484
regulated by the federal government or the department of 23485

agriculture as a food manufacturing or food processing business, 23486
including a business or that portion of a business regulated by 23487
the department of agriculture under Chapter 911., 913., 915., 23488
917., 918., or 925. of the Revised Code. 23489

(B) All of the following are exempt from the requirement to 23490
be licensed as a food service operation: 23491

(1) A private home in which individuals related by blood, 23492
marriage, or law reside and in which the food that is prepared or 23493
served is intended only for those individuals and their nonpaying 23494
guests; 23495

(2) A private home operated as a bed-and-breakfast that 23496
prepares and offers food to guests, if the home is owner-occupied, 23497
the number of available guest bedrooms does not exceed six, 23498
breakfast is the only meal offered, and the number of guests 23499
served does not exceed sixteen; 23500

(3) A stand operated on the premises of a private home by one 23501
or more children under the age of twelve, if the food served is 23502
not potentially hazardous; 23503

(4) A residential facility that accommodates not more than 23504
sixteen residents; is licensed, certified, registered, or 23505
otherwise regulated by the federal government or by the state or a 23506
political subdivision of the state; and prepares food for or 23507
serves food to only the residents of the facility, the staff of 23508
the facility, and any nonpaying guests of residents or staff; 23509

(5) A church, school, fraternal or veterans' organization, 23510
volunteer fire organization, or volunteer emergency medical 23511
service organization preparing or serving food intended for 23512
individual portion service on its premises for not more than seven 23513
consecutive days or not more than fifty-two separate days during a 23514
licensing period. This exemption extends to any individual or 23515
group raising all of its funds during the time periods specified 23516

in division (B)(5) of this section for the benefit of the church, 23517
school, or organization by preparing or serving food intended for 23518
individual portion service under the same conditions. 23519

(6) A common carrier that prepares or serves food, if the 23520
carrier is regulated by the federal government; 23521

(7) A food service operation serving ~~five~~ thirteen or fewer 23522
individuals daily; 23523

(8) A type A or type B family day-care home, as defined in 23524
section 5104.01 of the Revised Code, that prepares or serves food 23525
for the children receiving day-care; 23526

(9) A vending machine location where the only foods dispensed 23527
are foods from one or both of the following categories: 23528

(a) Prepackaged foods that are not potentially hazardous; 23529

(b) Nuts, panned or wrapped bulk chewing gum, or panned or 23530
wrapped bulk candies. 23531

(10) A place servicing the vending machines at a vending 23532
machine location described in division (B)(9) of this section; 23533

(11) A commissary servicing vending machines that dispense 23534
only milk, milk products, or frozen desserts that are under a 23535
state or federal inspection and analysis program; 23536

(12) A "controlled location vending machine location," which 23537
means a vending machine location at which all of the following 23538
apply: 23539

(a) The vending machines dispense only foods that are not 23540
potentially hazardous; 23541

(b) The machines are designed to be filled and maintained in 23542
a sanitary manner by untrained persons; 23543

(c) Minimal protection is necessary to ensure against 23544
contamination of food and equipment. 23545

(13) A private home that prepares and offers food to guests, 23546
if the home is owner-occupied, meals are served on the premises of 23547
that home, the number of meals served does not exceed one hundred 23548
fifteen per week, and the home displays a notice in a place 23549
conspicuous to all of its guests informing them that the home is 23550
not required to be licensed as a food service operation; 23551

(14) An individual who prepares full meals or meal 23552
components, such as pies or baked goods, in the individual's home 23553
to be served off the premises of that home, if the number of meals 23554
or meal components prepared for that purpose does not exceed 23555
twenty in a seven-day period. 23556

Sec. 3721.02. (A) The director of health shall license homes 23557
and establish procedures to be followed in inspecting and 23558
licensing homes. The director may inspect a home at any time. Each 23559
home shall be inspected by the director at least once prior to the 23560
issuance of a license and at least once every fifteen months 23561
thereafter. The state fire marshal or a township, municipal, or 23562
other legally constituted fire department approved by the marshal 23563
shall also inspect a home prior to issuance of a license, at least 23564
once every fifteen months thereafter, and at any other time 23565
requested by the director. A home does not have to be inspected 23566
prior to issuance of a license by the director, state fire 23567
marshal, or a fire department if ownership of the home is assigned 23568
or transferred to a different person and the home was licensed 23569
under this chapter immediately prior to the assignment or 23570
transfer. The director may enter at any time, for the purposes of 23571
investigation, any institution, residence, facility, or other 23572
structure that has been reported to the director or that the 23573
director has reasonable cause to believe is operating as a nursing 23574
home, residential care facility, or home for the aging without a 23575
valid license required by section 3721.05 of the Revised Code or, 23576

in the case of a county home or district home, is operating 23577
despite the revocation of its residential care facility license. 23578
The director may delegate the director's authority and duties 23579
under this chapter to any division, bureau, agency, or official of 23580
the department of health. 23581

(B) A single facility may be licensed both as a nursing home 23582
pursuant to this chapter and as an adult care facility pursuant to 23583
Chapter 3722. of the Revised Code if the director determines that 23584
the part or unit to be licensed as a nursing home can be 23585
maintained separate and discrete from the part or unit to be 23586
licensed as an adult care facility. 23587

(C) In determining the number of residents in a home for the 23588
purpose of licensing, the director shall consider all the 23589
individuals for whom the home provides accommodations as one group 23590
unless one of the following is the case: 23591

(1) The home is a home for the aging, in which case all the 23592
individuals in the part or unit licensed as a nursing home shall 23593
be considered as one group, and all the individuals in the part or 23594
unit licensed as a rest home shall be considered as another group. 23595

(2) The home is both a nursing home and an adult care 23596
facility. In that case, all the individuals in the part or unit 23597
licensed as a nursing home shall be considered as one group, and 23598
all the individuals in the part or unit licensed as an adult care 23599
facility shall be considered as another group. 23600

(3) The home maintains, in addition to a nursing home or 23601
residential care facility, a separate and discrete part or unit 23602
that provides accommodations to individuals who do not require or 23603
receive skilled nursing care and do not receive personal care 23604
services from the home, in which case the individuals in the 23605
separate and discrete part or unit shall not be considered in 23606
determining the number of residents in the home if the separate 23607

and discrete part or unit is in compliance with the Ohio basic 23608
building code established by the board of building standards under 23609
Chapters 3781. and 3791. of the Revised Code and the home permits 23610
the director, on request, to inspect the separate and discrete 23611
part or unit and speak with the individuals residing there, if 23612
they consent, to determine whether the separate and discrete part 23613
or unit meets the requirements of this division. 23614

(D) The director of health shall charge an application fee 23615
and an annual renewal licensing and inspection fee of one hundred 23616
five dollars for each fifty persons or part thereof of a home's 23617
licensed capacity. All fees collected by the director for the 23618
issuance or renewal of licenses shall be deposited into the state 23619
treasury to the credit of the general operations fund created in 23620
section 3701.83 of the Revised Code for use only in administering 23621
and enforcing this chapter and rules adopted under it. 23622

(E)(1) Except as otherwise provided in this section, the 23623
results of an inspection or investigation of a home that is 23624
conducted under this section, including any statement of 23625
deficiencies and all findings and deficiencies cited in the 23626
statement on the basis of the inspection or investigation, shall 23627
be used solely to determine the home's compliance with this 23628
chapter or another chapter of the Revised Code in any action or 23629
proceeding other than an action commenced under division (I) of 23630
section 3721.17 of the Revised Code. Those results of an 23631
inspection or investigation, that statement of deficiencies, and 23632
the findings and deficiencies cited in that statement shall not be 23633
used in any court or in any action or proceeding that is pending 23634
in any court and are not admissible in evidence in any action or 23635
proceeding unless that action or proceeding is an appeal of an 23636
action by the department of health under this chapter or is an 23637
action by any department or agency of the state to enforce this 23638
chapter or another chapter of the Revised Code. 23639

(2) Nothing in division (E)(1) of this section prohibits the results of an inspection or investigation conducted under this section from being used in a criminal investigation or prosecution.

Sec. 3721.19. (A) As used in this section:

(1) "Home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code;

(2) "Sponsor" and "residents' rights advocate" have the same meanings as in section 3721.10 of the Revised Code.

A home licensed under this chapter that is not a party to a provider agreement, as defined in section 5111.20 of the Revised Code, shall provide each prospective resident, before admission, with the following information, orally and in a separate written notice on which is printed in a conspicuous manner: "This home is not a participant in the medical assistance program administered by the Ohio department of job and family services. Consequently, you may be discharged from this home if you are unable to pay for the services provided by this home."

If the prospective resident has a sponsor whose identity is made known to the home, the home shall also inform the sponsor, before admission of the resident, of the home's status relative to the medical assistance program. Written acknowledgement of the receipt of the information shall be provided by the resident and, if the prospective resident has a sponsor who has been identified to the home, by the sponsor. The written acknowledgement shall be made part of the resident's record by the home.

No home shall terminate its status as a provider under the medical assistance program unless it has complied with section 5111.66 of the Revised Code and, at least ninety days prior to such termination, provided written notice to the ~~department of job~~

~~and family services and~~ residents of the home and their sponsors 23670
of such action. This requirement shall not apply in cases where 23671
the department of job and family services terminates a home's 23672
provider agreement or provider status. 23673

(B) A home licensed under this chapter as a residential care 23674
facility shall provide notice to each prospective resident or the 23675
individual's sponsor of the services offered by the facility and 23676
the types of skilled nursing care that the facility may provide. A 23677
residential care facility that, pursuant to section 3721.012 of 23678
the Revised Code, has a policy of entering into risk agreements 23679
with residents or their sponsors shall provide each prospective 23680
resident or the individual's sponsor a written explanation of the 23681
policy and the provisions that may be contained in a risk 23682
agreement. At the time the information is provided, the facility 23683
shall obtain a statement signed by the individual receiving the 23684
information acknowledging that the individual received the 23685
information. The facility shall maintain on file the individual's 23686
signed statement. 23687

(C) A resident has a cause of action against a home for 23688
breach of any duty imposed by this section. The action may be 23689
commenced by the resident, or on the resident's behalf by the 23690
resident's sponsor or a residents' rights advocate, by the filing 23691
of a civil action in the court of common pleas of the county in 23692
which the home is located, or in the court of common pleas of 23693
Franklin county. 23694

If the court finds that a breach of any duty imposed by this 23695
section has occurred, the court shall enjoin the home from 23696
discharging the resident from the home until arrangements 23697
satisfactory to the court are made for the orderly transfer of the 23698
resident to another mode of health care including, but not limited 23699
to, another home, and may award the resident and a person or 23700
public agency that brings an action on behalf of a resident 23701

reasonable attorney's fees. If a home discharges a resident to 23702
whom or to whose sponsor information concerning its status 23703
relative to the medical assistance program was not provided as 23704
required under this section, the court shall grant any appropriate 23705
relief including, but not limited to, actual damages, reasonable 23706
attorney's fees, and costs. 23707

Sec. 3727.17. Each hospital shall provide a staff person to 23708
do all of the following: 23709

(A) Meet with each unmarried mother who gave birth in or en 23710
route to the hospital within twenty-four hours after the birth or 23711
before the mother is released from the hospital; 23712

(B) Attempt to meet with the father of the unmarried mother's 23713
child if possible; 23714

(C) Explain to the unmarried mother and the father, if the 23715
father is present, the benefit to the child of establishing a 23716
parent and child relationship between the father and the child and 23717
the various proper procedures for establishing a parent and child 23718
relationship; 23719

(D) Present to the unmarried mother and, if possible, the 23720
father, the pamphlet or statement regarding the rights and 23721
responsibilities of a natural parent prepared by the department of 23722
job and family services pursuant to section 3111.32 of the Revised 23723
Code; 23724

(E) Provide the unmarried mother, and if possible the father, 23725
all forms and statements necessary to voluntarily establish a 23726
parent and child relationship, including the acknowledgment of 23727
paternity form prepared by the department of job and family 23728
services pursuant to section 3111.31 of the Revised Code; 23729

(F) Explain to the mother and father the availability of 23730
immediate genetic testing at the hospital to establish the parent 23731

and child relationship and that the test is at no cost to the 23732
mother or father; 23733

(G) Upon both the mother's and father's request, help the 23734
mother and father complete any specific form or statement 23735
necessary to establish a parent and child relationship; 23736

~~(G)~~(H) Present to an unmarried mother who is not a recipient 23737
of medicaid or a participant in Ohio works first an application 23738
for Title IV-D services; 23739

~~(H)~~(I) Mail the voluntary acknowledgment of paternity, no 23740
later than ten days after it is completed, to the office of child 23741
support in the department of job and family services. 23742

Each hospital shall provide a notary public to notarize an 23743
acknowledgment of paternity signed by the mother and father. If a 23744
hospital knows or determines that a man is presumed under section 23745
3111.03 of the Revised Code to be the father of the child 23746
described in this section and that the presumed father is not the 23747
man who signed or is attempting to sign an acknowledgment with 23748
respect to the child, the hospital shall take no further action 23749
with regard to the acknowledgment and shall not mail the 23750
acknowledgment pursuant to this section. 23751

A hospital may contract with a person or government entity to 23752
fulfill its responsibilities under this section and sections 23753
3111.71 to 3111.74 of the Revised Code. Services provided by a 23754
hospital under this section or pursuant to a contract under 23755
sections 3111.71 and 3111.77 of the Revised Code do not constitute 23756
the practice of law. A hospital shall not be subject to criminal 23757
or civil liability for any damage or injury alleged to result from 23758
services provided pursuant to this section or sections 3111.71 to 23759
3111.74 of the Revised Code unless the hospital acted with 23760
malicious purpose, in bad faith, or in a wanton or reckless 23761
manner. 23762

Sec. 3733.43. (A) Except as otherwise provided in this 23763
division, prior to the fifteenth day of April in each year, every 23764
person who intends to operate an agricultural labor camp shall 23765
make application to the licenser for a license to operate such 23766
camp, effective for the calendar year in which it is issued. The 23767
licensor may accept an application on or after the fifteenth day 23768
of April. The license fees specified in this division shall be 23769
submitted to the licenser with the application for a license. No 23770
agricultural labor camp shall be operated in this state without a 23771
license. Any person operating an agricultural labor camp without a 23772
current and valid agricultural labor camp license is not excepted 23773
from compliance with sections 3733.41 to 3733.49 of the Revised 23774
Code by holding a valid and current hotel license. Each person 23775
proposing to open an agricultural labor camp shall submit with the 23776
application for a license any plans required by any rule adopted 23777
under section 3733.42 of the Revised Code. The annual license fee 23778
is ~~twenty~~ seventy-five dollars, unless the application for a 23779
license is made on or after the fifteenth day of April, in which 23780
case the annual license fee is ~~forty~~ one hundred dollars. An 23781
additional fee of ~~three~~ ten dollars per housing unit per year 23782
shall be assessed to defray the costs of enforcing sections 23783
3733.41 to 3733.49 of the Revised Code, unless the application for 23784
a license is made on or after the fifteenth day of April, in which 23785
case an additional fee of ~~six~~ fifteen dollars per housing unit 23786
shall be assessed. All fees collected under this division shall be 23787
deposited in the state treasury to the credit of the general 23788
operations fund created in section 3701.83 of the Revised Code and 23789
shall be used for the administration and enforcement of sections 23790
3733.41 to 3733.49 of the Revised Code and rules adopted 23791
thereunder. 23792

(B) Any license under this section may be denied, suspended, 23793
or revoked by the licenser for violation of sections 3733.41 to 23794

3733.49 of the Revised Code or the rules adopted thereunder. 23795
Unless there is an immediate serious public health hazard, no 23796
denial, suspension, or revocation of a license shall be made 23797
effective until the person operating the agricultural labor camp 23798
has been given notice in writing of the specific violations and a 23799
reasonable time to make corrections. When the licensor determines 23800
that an immediate serious public health hazard exists, ~~he~~ the 23801
licensor shall issue an order denying or suspending the license 23802
without a prior hearing. 23803

(C) All proceedings under this section are subject to Chapter 23804
119. of the Revised Code except as provided in section 3733.431 of 23805
the Revised Code. 23806

(D) Every occupant of an agricultural labor camp shall keep 23807
that part of the dwelling unit, and premises thereof, that ~~he~~ the 23808
occupant occupies and controls in a clean and sanitary condition. 23809

Sec. 3733.45. (A) The licensor shall inspect all agricultural 23810
labor camps and shall require compliance with sections 3733.41 to 23811
3733.49 of the Revised Code and the rules adopted thereunder prior 23812
to the issuance of a license. Upon receipt of a complaint from the 23813
migrant agricultural ~~ombudsman~~ ombudsperson or upon the basis of a 23814
licensor's own information that an agricultural labor camp is 23815
operating without a license, the licensor shall inspect the camp. 23816
If the camp is operating without a license, the licensor shall 23817
require the camp to comply with sections 3733.41 to 3733.49 of the 23818
Revised Code and the rules adopted under those sections. No 23819
license shall be issued unless results of water supply tests 23820
indicate that the water supply meets required standards or if any 23821
violations exist concerning sanitation, drainage, or habitability 23822
of housing units. 23823

(B) The licensor shall, upon issuance of each license, 23824
distribute posters containing the toll-free telephone number of 23825

the migrant agricultural ~~ombudsman~~ ombudsperson established in 23826
section 3733.49 of the Revised Code and information in English and 23827
Spanish describing the purpose of the ~~ombudsman's~~ ombudsperson's 23828
office, as provided in that section. The licensor shall provide at 23829
least two posters to the licensee, one for ~~his~~ the licensee's 23830
personal use and at least one that shall be posted in a 23831
conspicuous place within the camp. 23832

(C) The licensor may, upon proper identification to the 23833
operator or ~~his~~ the operator's agent, enter on any property or 23834
into any structure at any reasonable time for the purpose of 23835
making inspections required by this section. 23836

The licensor shall make at least one inspection prior to 23837
~~licensing, and at least two inspections during occupancy of the~~ 23838
~~camps, at least one of which shall be an unannounced evening~~ 23839
~~inspection conducted after five p.m. The licensor shall determine~~ 23840
~~and record housing unit occupancy during each evening inspection.~~ 23841
The licensor shall make such other inspections as ~~he~~ the licensor 23842
considers necessary to enforce sections 3733.41 to 3733.49 of the 23843
Revised Code adequately. 23844

(D) Any plans submitted to the licensor shall be in 23845
compliance with rules adopted pursuant to section 3733.42 of the 23846
Revised Code and shall be approved or disapproved within thirty 23847
days after they are filed. 23848

~~(E) All designees of the licensor who conduct inspections in~~ 23849
~~the evening in accordance with this section shall speak both~~ 23850
~~English and Spanish fluently. At least one member of the permanent~~ 23851
~~staff assigned to conduct inspections in accordance with this~~ 23852
~~section shall speak both English and Spanish fluently.~~ 23853

~~(F)~~ The licensor shall issue an annual report that shall 23854
accurately reflect the results of that year's inspections, 23855
including, but not limited to, numbers of ~~pre and post occupancy~~ 23856

inspections, number of violations found, and action taken in 23857
regard to violations. The report shall also include an assessment 23858
of any problems found in that year and proposed solutions for 23859
them. 23860

Sec. 3734.02. (A) The director of environmental protection, 23861
in accordance with Chapter 119. of the Revised Code, shall adopt 23862
and may amend, suspend, or rescind rules having uniform 23863
application throughout the state governing solid waste facilities 23864
and the inspections of and issuance of permits and licenses for 23865
all solid waste facilities in order to ensure that the facilities 23866
will be located, maintained, and operated, and will undergo 23867
closure and post-closure care, in a sanitary manner so as not to 23868
create a nuisance, cause or contribute to water pollution, create 23869
a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 23870
257.3-8, as amended. The rules may include, without limitation, 23871
financial assurance requirements for closure and post-closure care 23872
and corrective action and requirements for taking corrective 23873
action in the event of the surface or subsurface discharge or 23874
migration of explosive gases or leachate from a solid waste 23875
facility, or of ground water contamination resulting from the 23876
transfer or disposal of solid wastes at a facility, beyond the 23877
boundaries of any area within a facility that is operating or is 23878
undergoing closure or post-closure care where solid wastes were 23879
disposed of or are being disposed of. The rules shall not concern 23880
or relate to personnel policies, salaries, wages, fringe benefits, 23881
or other conditions of employment of employees of persons owning 23882
or operating solid waste facilities. The director, in accordance 23883
with Chapter 119. of the Revised Code, shall adopt and may amend, 23884
suspend, or rescind rules governing the issuance, modification, 23885
revocation, suspension, or denial of variances from the director's 23886
solid waste rules, including, without limitation, rules adopted 23887
under this chapter governing the management of scrap tires. 23888

Variances shall be issued, modified, revoked, suspended, or 23889
rescinded in accordance with this division, rules adopted under 23890
it, and Chapter 3745. of the Revised Code. The director may order 23891
the person to whom a variance is issued to take such action within 23892
such time as the director may determine to be appropriate and 23893
reasonable to prevent the creation of a nuisance or a hazard to 23894
the public health or safety or the environment. Applications for 23895
variances shall contain such detail plans, specifications, and 23896
information regarding objectives, procedures, controls, and other 23897
pertinent data as the director may require. The director shall 23898
grant a variance only if the applicant demonstrates to the 23899
director's satisfaction that construction and operation of the 23900
solid waste facility in the manner allowed by the variance and any 23901
terms or conditions imposed as part of the variance will not 23902
create a nuisance or a hazard to the public health or safety or 23903
the environment. In granting any variance, the director shall 23904
state the specific provision or provisions whose terms are to be 23905
varied and also shall state specific terms or conditions imposed 23906
upon the applicant in place of the provision or provisions. The 23907
director may hold a public hearing on an application for a 23908
variance or renewal of a variance at a location in the county 23909
where the operations that are the subject of the application for 23910
the variance are conducted. The director shall give not less than 23911
twenty days' notice of the hearing to the applicant by certified 23912
mail and shall publish at least one notice of the hearing in a 23913
newspaper with general circulation in the county where the hearing 23914
is to be held. The director shall make available for public 23915
inspection at the principal office of the environmental protection 23916
agency a current list of pending applications for variances and a 23917
current schedule of pending variance hearings. The director shall 23918
make a complete stenographic record of testimony and other 23919
evidence submitted at the hearing. Within ten days after the 23920
hearing, the director shall make a written determination to issue, 23921

renew, or deny the variance and shall enter the determination and 23922
the basis for it into the record of the hearing. The director 23923
shall issue, renew, or deny an application for a variance or 23924
renewal of a variance within six months of the date upon which the 23925
director receives a complete application with all pertinent 23926
information and data required. No variance shall be issued, 23927
revoked, modified, or denied until the director has considered the 23928
relative interests of the applicant, other persons and property 23929
affected by the variance, and the general public. Any variance 23930
granted under this division shall be for a period specified by the 23931
director and may be renewed from time to time on such terms and 23932
for such periods as the director determines to be appropriate. No 23933
application shall be denied and no variance shall be revoked or 23934
modified without a written order stating the findings upon which 23935
the denial, revocation, or modification is based. A copy of the 23936
order shall be sent to the applicant or variance holder by 23937
certified mail. 23938

(B) The director shall prescribe and furnish the forms 23939
necessary to administer and enforce this chapter. The director may 23940
cooperate with and enter into agreements with other state, local, 23941
or federal agencies to carry out the purposes of this chapter. The 23942
director may exercise all incidental powers necessary to carry out 23943
the purposes of this chapter. 23944

The director may use moneys in the infectious waste 23945
management fund created in section 3734.021 of the Revised Code 23946
exclusively for administering and enforcing the provisions of this 23947
chapter governing the management of infectious wastes. Of each 23948
registration and renewal fee collected under rules adopted under 23949
division (A)(2)(a) of section 3734.021 or under section 3734.022 23950
of the Revised Code, the director, within forty-five days of its 23951
receipt, shall remit from the fund one-half of the fee received to 23952
the board of health of the health district in which the registered 23953

premises is located, or, in the instance of an infectious wastes 23954
transporter, to the board of health of the health district in 23955
which the transporter's principal place of business is located. 23956
However, if the board of health having jurisdiction over a 23957
registrant's premises or principal place of business is not on the 23958
approved list under section 3734.08 of the Revised Code, the 23959
director shall not make that payment to the board of health. 23960

(C) Except as provided in this division and divisions (N)(2) 23961
and (3) of this section, no person shall establish a new solid 23962
waste facility or infectious waste treatment facility, or modify 23963
an existing solid waste facility or infectious waste treatment 23964
facility, without submitting an application for a permit with 23965
accompanying detail plans, specifications, and information 23966
regarding the facility and method of operation and receiving a 23967
permit issued by the director, except that no permit shall be 23968
required under this division to install or operate a solid waste 23969
facility for sewage sludge treatment or disposal when the 23970
treatment or disposal is authorized by a current permit issued 23971
under Chapter 3704. or 6111. of the Revised Code. 23972

No person shall continue to operate a solid waste facility 23973
for which the director has denied a permit for which an 23974
application was required under division (A)(3) of section 3734.05 23975
of the Revised Code, or for which the director has disapproved 23976
plans and specifications required to be filed by an order issued 23977
under division (A)(5) of that section, after the date prescribed 23978
for commencement of closure of the facility in the order issued 23979
under division (A)(6) of section 3734.05 of the Revised Code 23980
denying the permit application or approval. 23981

On and after the effective date of the rules adopted under 23982
division (A) of this section and division (D) of section 3734.12 23983
of the Revised Code governing solid waste transfer facilities, no 23984
person shall establish a new, or modify an existing, solid waste 23985

transfer facility without first submitting an application for a 23986
permit with accompanying engineering detail plans, specifications, 23987
and information regarding the facility and its method of operation 23988
to the director and receiving a permit issued by the director. 23989

No person shall establish a new compost facility or continue 23990
to operate an existing compost facility that accepts exclusively 23991
source separated yard wastes without submitting a completed 23992
registration for the facility to the director in accordance with 23993
rules adopted under divisions (A) and (N)(3) of this section. 23994

This division does not apply to an infectious waste treatment 23995
facility that meets any of the following conditions: 23996

(1) Is owned or operated by the generator of the wastes and 23997
exclusively treats, by methods, techniques, and practices 23998
established by rules adopted under division (C)(1) or (3) of 23999
section 3734.021 of the Revised Code, wastes that are generated at 24000
any premises owned or operated by that generator regardless of 24001
whether the wastes are generated on the premises where the 24002
generator's treatment facility is located or, if the generator is 24003
a hospital as defined in section 3727.01 of the Revised Code, 24004
infectious wastes that are described in division (A)(1)(g), (h), 24005
or (i) of section 3734.021 of the Revised Code; 24006

(2) Holds a license or renewal of a license to operate a 24007
crematory facility issued under Chapter 4717. and a permit issued 24008
under Chapter 3704. of the Revised Code; 24009

(3) Treats or disposes of dead animals or parts thereof, or 24010
the blood of animals, and is subject to any of the following: 24011

(a) Inspection under the "Federal Meat Inspection Act," 81 24012
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 24013

(b) Chapter 918. of the Revised Code; 24014

(c) Chapter 953. of the Revised Code. 24015

(D) Neither this chapter nor any rules adopted under it apply 24016
to single-family residential premises; to infectious wastes 24017
generated by individuals for purposes of their own care or 24018
treatment that are disposed of with solid wastes from the 24019
individual's residence; to the temporary storage of solid wastes, 24020
other than scrap tires, prior to their collection for disposal; to 24021
the storage of one hundred or fewer scrap tires unless they are 24022
stored in such a manner that, in the judgment of the director or 24023
the board of health of the health district in which the scrap 24024
tires are stored, the storage causes a nuisance, a hazard to 24025
public health or safety, or a fire hazard; or to the collection of 24026
solid wastes, other than scrap tires, by a political subdivision 24027
or a person holding a franchise or license from a political 24028
subdivision of the state; to composting, as defined in section 24029
1511.01 of the Revised Code, conducted in accordance with section 24030
1511.022 of the Revised Code; or to any person who is licensed to 24031
transport raw rendering material to a compost facility pursuant to 24032
section 953.23 of the Revised Code. 24033

(E)(1) As used in this division and section 3734.18 of the 24034
Revised Code: 24035

(a) "On-site facility" means a facility that stores, treats, 24036
or disposes of hazardous waste that is generated on the premises 24037
of the facility. 24038

(b) "Off-site facility" means a facility that stores, treats, 24039
or disposes of hazardous waste that is generated off the premises 24040
of the facility and includes such a facility that is also an 24041
on-site facility. 24042

(c) "Satellite facility" means any of the following: 24043

(i) An on-site facility that also receives hazardous waste 24044
from other premises owned by the same person who generates the 24045
waste on the facility premises; 24046

(ii) An off-site facility operated so that all of the 24047
hazardous waste it receives is generated on one or more premises 24048
owned by the person who owns the facility; 24049

(iii) An on-site facility that also receives hazardous waste 24050
that is transported uninterruptedly and directly to the facility 24051
through a pipeline from a generator who is not the owner of the 24052
facility. 24053

(2) Except as provided in division (E)(3) of this section, no 24054
person shall establish or operate a hazardous waste facility, or 24055
use a solid waste facility for the storage, treatment, or disposal 24056
of any hazardous waste, without a hazardous waste facility 24057
installation and operation permit ~~from the hazardous waste~~ 24058
~~facility board~~ issued in accordance with section 3734.05 of the 24059
Revised Code and subject to the payment of an application fee not 24060
to exceed one thousand five hundred dollars, payable upon 24061
application for a hazardous waste facility installation and 24062
operation permit and upon application for a renewal permit issued 24063
under division (H) of section 3734.05 of the Revised Code, to be 24064
credited to the hazardous waste facility management fund created 24065
in section 3734.18 of the Revised Code. The term of a hazardous 24066
waste facility installation and operation permit shall not exceed 24067
five years. 24068

In addition to the application fee, there is hereby levied an 24069
annual permit fee to be paid by the permit holder upon the 24070
anniversaries of the date of issuance of the hazardous waste 24071
facility installation and operation permit and of any subsequent 24072
renewal permits and to be credited to the hazardous waste facility 24073
management fund. Annual permit fees totaling forty thousand 24074
dollars or more for any one facility may be paid on a quarterly 24075
basis with the first quarterly payment each year being due on the 24076
anniversary of the date of issuance of the hazardous waste 24077
facility installation and operation permit and of any subsequent 24078

renewal permits. The annual permit fee shall be determined for			24079
each permit holder by the director in accordance with the			24080
following schedule:			24081
TYPE OF BASIC			24082
MANAGEMENT UNIT	TYPE OF FACILITY	FEE	24083
Storage facility using:			24084
Containers	On-site, off-site, and		24085
	satellite	\$ 500	24086
Tanks	On-site, off-site, and		24087
	satellite	500	24088
Waste pile	On-site, off-site, and		24089
	satellite	3,000	24090
Surface impoundment	On-site and satellite	8,000	24091
	Off-site	10,000	24092
Disposal facility using:			24093
Deep well injection	On-site and satellite	15,000	24094
	Off-site	25,000	24095
Landfill	On-site and satellite	25,000	24096
	Off-site	40,000	24097
Land application	On-site and satellite	2,500	24098
	Off-site	5,000	24099
Surface impoundment	On-site and satellite	10,000	24100
	Off-site	20,000	24101
Treatment facility using:			24102
Tanks	On-site, off-site, and		24103
	satellite	700	24104
Surface impoundment	On-site and satellite	8,000	24105
	Off-site	10,000	24106
Incinerator	On-site and satellite	5,000	24107
	Off-site	<u>10,000</u>	24108
Other forms			24109
of treatment	On-site, off-site, and		24110
	satellite	1,000	24111

In determining the annual permit fee required by this 24112
section, the director shall not require additional payments for 24113
multiple units of the same method of storage, treatment, or 24114
disposal or for individual units that are used for both storage 24115
and treatment. A facility using more than one method of storage, 24116
treatment, or disposal shall pay the permit fee indicated by the 24117
schedule for each such method. 24118

The director shall not require the payment of that portion of 24119
an annual permit fee of any permit holder that would apply to a 24120
hazardous waste management unit for which a permit has been 24121
issued, but for which construction has not yet commenced. Once 24122
construction has commenced, the director shall require the payment 24123
of a part of the appropriate fee indicated by the schedule that 24124
bears the same relationship to the total fee that the number of 24125
days remaining until the next anniversary date at which payment of 24126
the annual permit fee is due bears to three hundred sixty-five. 24127

The director, by rules adopted in accordance with Chapters 24128
119. and 3745. of the Revised Code, shall prescribe procedures for 24129
collecting the annual permit fee established by this division and 24130
may prescribe other requirements necessary to carry out this 24131
division. 24132

(3) The prohibition against establishing or operating a 24133
hazardous waste facility without a hazardous waste facility 24134
installation and operation permit ~~from the board~~ does not apply to 24135
either of the following: 24136

(a) A facility that is operating in accordance with a permit 24137
renewal issued under division (H) of section 3734.05 of the 24138
Revised Code, a revision issued under division (I) of that section 24139
as it existed prior to August 20, 1996, or a modification issued 24140
by the director under division (I) of that section on and after 24141
August 20, 1996; 24142

(b) Except as provided in division (J) of section 3734.05 of the Revised Code, a facility that will operate or is operating in accordance with a permit by rule, or that is not subject to permit requirements, under rules adopted by the director. In accordance with Chapter 119. of the Revised Code, the director shall adopt, and subsequently may amend, suspend, or rescind, rules for the purposes of division (E)(3)(b) of this section. Any rules so adopted shall be consistent with and equivalent to regulations pertaining to interim status adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

If a modification is requested or proposed for a facility described in division (E)(3)(a) or (b) of this section, division (I)~~(8)~~(7) of section 3734.05 of the Revised Code applies.

(F) No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of, or transport or cause to be transported any hazardous waste identified or listed under this chapter and rules adopted under it to any other premises, except at or to any of the following:

(1) A hazardous waste facility operating under a permit issued in accordance with this chapter;

(2) A facility in another state operating under a license or permit issued in accordance with the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended;

(3) A facility in another nation operating in accordance with the laws of that nation;

(4) A facility holding a permit issued pursuant to Title I of the "Marine Protection, Research, and Sanctuaries Act of 1972," 86

Stat. 1052, 33 U.S.C.A. 1401, as amended; 24174

(5) A hazardous waste facility as described in division 24175
(E)(3)(a) or (b) of this section. 24176

(G) The director, by order, may exempt any person generating, 24177
collecting, storing, treating, disposing of, or transporting solid 24178
wastes or hazardous waste, or processing solid wastes that consist 24179
of scrap tires, in such quantities or under such circumstances 24180
that, in the determination of the director, are unlikely to 24181
adversely affect the public health or safety or the environment 24182
from any requirement to obtain a registration certificate, permit, 24183
or license or comply with the manifest system or other 24184
requirements of this chapter. Such an exemption shall be 24185
consistent with and equivalent to any regulations adopted by the 24186
administrator of the United States environmental protection agency 24187
under the "Resource Conservation and Recovery Act of 1976," 90 24188
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 24189
provided in this chapter. 24190

(H) No person shall engage in filling, grading, excavating, 24191
building, drilling, or mining on land where a hazardous waste 24192
facility, or a solid waste facility, was operated without prior 24193
authorization from the director, who shall establish the procedure 24194
for granting such authorization by rules adopted in accordance 24195
with Chapter 119. of the Revised Code. 24196

A public utility that has main or distribution lines above or 24197
below the land surface located on an easement or right-of-way 24198
across land where a solid waste facility was operated may engage 24199
in any such activity within the easement or right-of-way without 24200
prior authorization from the director for purposes of performing 24201
emergency repair or emergency replacement of its lines; of the 24202
poles, towers, foundations, or other structures supporting or 24203
sustaining any such lines; or of the appurtenances to those 24204
structures, necessary to restore or maintain existing public 24205

utility service. A public utility may enter upon any such easement 24206
or right-of-way without prior authorization from the director for 24207
purposes of performing necessary or routine maintenance of those 24208
portions of its existing lines; of the existing poles, towers, 24209
foundations, or other structures sustaining or supporting its 24210
lines; or of the appurtenances to any such supporting or 24211
sustaining structure, located on or above the land surface on any 24212
such easement or right-of-way. Within twenty-four hours after 24213
commencing any such emergency repair, replacement, or maintenance 24214
work, the public utility shall notify the director or the 24215
director's authorized representative of those activities and shall 24216
provide such information regarding those activities as the 24217
director or the director's representative may request. Upon 24218
completion of the emergency repair, replacement, or maintenance 24219
activities, the public utility shall restore any land of the solid 24220
waste facility disturbed by those activities to the condition 24221
existing prior to the commencement of those activities. 24222

(I) No owner or operator of a hazardous waste facility, in 24223
the operation of the facility, shall cause, permit, or allow the 24224
emission therefrom of any particulate matter, dust, fumes, gas, 24225
mist, smoke, vapor, or odorous substance that, in the opinion of 24226
the director, unreasonably interferes with the comfortable 24227
enjoyment of life or property by persons living or working in the 24228
vicinity of the facility, or that is injurious to public health. 24229
Any such action is hereby declared to be a public nuisance. 24230

(J) Notwithstanding any other provision of this chapter, in 24231
the event the director finds an imminent and substantial danger to 24232
public health or safety or the environment that creates an 24233
emergency situation requiring the immediate treatment, storage, or 24234
disposal of hazardous waste, the director may issue a temporary 24235
emergency permit to allow the treatment, storage, or disposal of 24236
the hazardous waste at a facility that is not otherwise authorized 24237

by a hazardous waste facility installation and operation permit to 24238
treat, store, or dispose of the waste. The emergency permit shall 24239
not exceed ninety days in duration and shall not be renewed. The 24240
director shall adopt, and may amend, suspend, or rescind, rules in 24241
accordance with Chapter 119. of the Revised Code governing the 24242
issuance, modification, revocation, and denial of emergency 24243
permits. 24244

(K) No owner or operator of a sanitary landfill shall 24245
knowingly accept for disposal, or dispose of, any infectious 24246
wastes, other than those subject to division (A)(1)(c) of section 24247
3734.021 of the Revised Code, that have not been treated to render 24248
them noninfectious. For the purposes of this division, 24249
certification by the owner or operator of the treatment facility 24250
where the wastes were treated on the shipping paper required by 24251
rules adopted under division (D)(2) of that section creates a 24252
rebuttable presumption that the wastes have been so treated. 24253

(L) The director, in accordance with Chapter 119. of the 24254
Revised Code, shall adopt, and may amend, suspend, or rescind, 24255
rules having uniform application throughout the state establishing 24256
a training and certification program that shall be required for 24257
employees of boards of health who are responsible for enforcing 24258
the solid waste and infectious waste provisions of this chapter 24259
and rules adopted under them and for persons who are responsible 24260
for the operation of solid waste facilities or infectious waste 24261
treatment facilities. The rules shall provide all of the 24262
following, without limitation: 24263

(1) The program shall be administered by the director and 24264
shall consist of a course on new solid waste and infectious waste 24265
technologies, enforcement procedures, and rules; 24266

(2) The course shall be offered on an annual basis; 24267

(3) Those persons who are required to take the course under 24268

division (L) of this section shall do so triennially; 24269

(4) Persons who successfully complete the course shall be 24270
certified by the director; 24271

(5) Certification shall be required for all employees of 24272
boards of health who are responsible for enforcing the solid waste 24273
or infectious waste provisions of this chapter and rules adopted 24274
under them and for all persons who are responsible for the 24275
operation of solid waste facilities or infectious waste treatment 24276
facilities; 24277

(6)(a) All employees of a board of health who, on the 24278
effective date of the rules adopted under this division, are 24279
responsible for enforcing the solid waste or infectious waste 24280
provisions of this chapter and the rules adopted under them shall 24281
complete the course and be certified by the director not later 24282
than January 1, 1995; 24283

(b) All employees of a board of health who, after the 24284
effective date of the rules adopted under division (L) of this 24285
section, become responsible for enforcing the solid waste or 24286
infectious waste provisions of this chapter and rules adopted 24287
under them and who do not hold a current and valid certification 24288
from the director at that time shall complete the course and be 24289
certified by the director within two years after becoming 24290
responsible for performing those activities. 24291

No person shall fail to obtain the certification required 24292
under this division. 24293

(M) The director shall not issue a permit under section 24294
3734.05 of the Revised Code to establish a solid waste facility, 24295
or to modify a solid waste facility operating on December 21, 24296
1988, in a manner that expands the disposal capacity or geographic 24297
area covered by the facility, that is or is to be located within 24298
the boundaries of a state park established or dedicated under 24299

Chapter 1541. of the Revised Code, a state park purchase area 24300
established under section 1541.02 of the Revised Code, any unit of 24301
the national park system, or any property that lies within the 24302
boundaries of a national park or recreation area, but that has not 24303
been acquired or is not administered by the secretary of the 24304
United States department of the interior, located in this state, 24305
or any candidate area located in this state and identified for 24306
potential inclusion in the national park system in the edition of 24307
the "national park system plan" submitted under paragraph (b) of 24308
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 24309
U.S.C.A. 1a-5, as amended, current at the time of filing of the 24310
application for the permit, unless the facility or proposed 24311
facility is or is to be used exclusively for the disposal of solid 24312
wastes generated within the park or recreation area and the 24313
director determines that the facility or proposed facility will 24314
not degrade any of the natural or cultural resources of the park 24315
or recreation area. The director shall not issue a variance under 24316
division (A) of this section and rules adopted under it, or issue 24317
an exemption order under division (G) of this section, that would 24318
authorize any such establishment or expansion of a solid waste 24319
facility within the boundaries of any such park or recreation 24320
area, state park purchase area, or candidate area, other than a 24321
solid waste facility exclusively for the disposal of solid wastes 24322
generated within the park or recreation area when the director 24323
determines that the facility will not degrade any of the natural 24324
or cultural resources of the park or recreation area. 24325

(N)(1) The rules adopted under division (A) of this section, 24326
other than those governing variances, do not apply to scrap tire 24327
collection, storage, monocell, monofill, and recovery facilities. 24328
Those facilities are subject to and governed by rules adopted 24329
under sections 3734.70 to 3734.73 of the Revised Code, as 24330
applicable. 24331

(2) Division (C) of this section does not apply to scrap tire 24332
collection, storage, monocell, monofill, and recovery facilities. 24333
The establishment and modification of those facilities are subject 24334
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 24335
Code, as applicable. 24336

(3) The director may adopt, amend, suspend, or rescind rules 24337
under division (A) of this section creating an alternative system 24338
for authorizing the establishment, operation, or modification of a 24339
solid waste compost facility in lieu of the requirement that a 24340
person seeking to establish, operate, or modify a solid waste 24341
compost facility apply for and receive a permit under division (C) 24342
of this section and section 3734.05 of the Revised Code and a 24343
license under division (A)(1) of that section. The rules may 24344
include requirements governing, without limitation, the 24345
classification of solid waste compost facilities, the submittal of 24346
operating records for solid waste compost facilities, and the 24347
creation of a registration or notification system in lieu of the 24348
issuance of permits and licenses for solid waste compost 24349
facilities. The rules shall specify the applicability of divisions 24350
(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised 24351
Code to a solid waste compost facility. 24352

Sec. 3734.05. (A)(1) Except as provided in divisions (A)(4), 24353
(8), and (9) of this section, no person shall operate or maintain 24354
a solid waste facility without a license issued under this 24355
division by the board of health of the health district in which 24356
the facility is located or by the director of environmental 24357
protection when the health district in which the facility is 24358
located is not on the approved list under section 3734.08 of the 24359
Revised Code. 24360

During the month of December, but before the first day of 24361
January of the next year, every person proposing to continue to 24362

operate an existing solid waste facility shall procure a license 24363
under this division to operate the facility for that year from the 24364
board of health of the health district in which the facility is 24365
located or, if the health district is not on the approved list 24366
under section 3734.08 of the Revised Code, from the director. The 24367
application for such a license shall be submitted to the board of 24368
health or to the director, as appropriate, on or before the last 24369
day of September of the year preceding that for which the license 24370
is sought. In addition to the application fee prescribed in 24371
division (A)(2) of this section, a person who submits an 24372
application after that date shall pay an additional ten per cent 24373
of the amount of the application fee for each week that the 24374
application is late. Late payment fees accompanying an application 24375
submitted to the board of health shall be credited to the special 24376
fund of the health district created in division (B) of section 24377
3734.06 of the Revised Code, and late payment fees accompanying an 24378
application submitted to the director shall be credited to the 24379
general revenue fund. A person who has received a license, upon 24380
sale or disposition of a solid waste facility, and upon consent of 24381
the board of health and the director, may have the license 24382
transferred to another person. The board of health or the director 24383
may include such terms and conditions in a license or revision to 24384
a license as are appropriate to ensure compliance with this 24385
chapter and rules adopted under it. The terms and conditions may 24386
establish the authorized maximum daily waste receipts for the 24387
facility. Limitations on maximum daily waste receipts shall be 24388
specified in cubic yards of volume for the purpose of regulating 24389
the design, construction, and operation of solid waste facilities. 24390
Terms and conditions included in a license or revision to a 24391
license by a board of health shall be consistent with, and pertain 24392
only to the subjects addressed in, the rules adopted under 24393
division (A) of section 3734.02 and division (D) of section 24394
3734.12 of the Revised Code. 24395

(2)(a) Except as provided in divisions (A)(2)(b), (8), and 24396
(9) of this section, each person proposing to open a new solid 24397
waste facility or to modify an existing solid waste facility shall 24398
submit an application for a permit with accompanying detail plans 24399
and specifications to the environmental protection agency for 24400
required approval under the rules adopted by the director pursuant 24401
to division (A) of section 3734.02 of the Revised Code and 24402
applicable rules adopted under division (D) of section 3734.12 of 24403
the Revised Code at least two hundred seventy days before proposed 24404
operation of the facility and shall concurrently make application 24405
for the issuance of a license under division (A)(1) of this 24406
section with the board of health of the health district in which 24407
the proposed facility is to be located. 24408

(b) On and after the effective date of the rules adopted 24409
under division (A) of section 3734.02 of the Revised Code and 24410
division (D) of section 3734.12 of the Revised Code governing 24411
solid waste transfer facilities, each person proposing to open a 24412
new solid waste transfer facility or to modify an existing solid 24413
waste transfer facility shall submit an application for a permit 24414
with accompanying engineering detail plans, specifications, and 24415
information regarding the facility and its method of operation to 24416
the environmental protection agency for required approval under 24417
those rules at least two hundred seventy days before commencing 24418
proposed operation of the facility and concurrently shall make 24419
application for the issuance of a license under division (A)(1) of 24420
this section with the board of health of the health district in 24421
which the facility is located or proposed. 24422

(c) Each application for a permit under division (A)(2)(a) or 24423
(b) of this section shall be accompanied by a nonrefundable 24424
application fee of four hundred dollars that shall be credited to 24425
the general revenue fund. Each application for an annual license 24426
under division (A)(1) or (2) of this section shall be accompanied 24427

by a nonrefundable application fee of one hundred dollars. If the 24428
application for an annual license is submitted to a board of 24429
health on the approved list under section 3734.08 of the Revised 24430
Code, the application fee shall be credited to the special fund of 24431
the health district created in division (B) of section 3734.06 of 24432
the Revised Code. If the application for an annual license is 24433
submitted to the director, the application fee shall be credited 24434
to the general revenue fund. If a permit or license is issued, the 24435
amount of the application fee paid shall be deducted from the 24436
amount of the permit fee due under division (Q) of section 3745.11 24437
of the Revised Code or the amount of the license fee due under 24438
division (A)(1), (2), (3), or (4) of section 3734.06 of the 24439
Revised Code. 24440

(d) As used in divisions (A)(2)(d), (e), and (f) of this 24441
section, "modify" means any of the following: 24442

(i) Any increase of more than ten per cent in the total 24443
capacity of a solid waste facility; 24444

(ii) Any expansion of the limits of solid waste placement at 24445
a solid waste facility; 24446

(iii) Any increase in the depth of excavation at a solid 24447
waste facility; 24448

(iv) Any change in the technique of waste receipt or type of 24449
waste received at a solid waste facility that may endanger human 24450
health, as determined by the director by rules adopted in 24451
accordance with Chapter 119. of the Revised Code. 24452

Not later than thirty-five days after submitting an 24453
application under division (A)(2)(a) or (b) of this section for a 24454
permit to open a new or modify an existing solid waste facility, 24455
the applicant, in conjunction with an officer or employee of the 24456
environmental protection agency, shall hold a public meeting on 24457
the application within the county in which the new or modified 24458

solid waste facility is or is proposed to be located or within a 24459
contiguous county. Not less than thirty days before holding the 24460
public meeting on the application, the applicant shall publish 24461
notice of the meeting in each newspaper of general circulation 24462
that is published in the county in which the facility is or is 24463
proposed to be located. If no newspaper of general circulation is 24464
published in the county, the applicant shall publish the notice in 24465
a newspaper of general circulation in the county. The notice shall 24466
contain the date, time, and location of the public meeting and a 24467
general description of the proposed new or modified facility. Not 24468
later than five days after publishing the notice, the applicant 24469
shall send by certified mail a copy of the notice and the date the 24470
notice was published to the director and the legislative authority 24471
of each municipal corporation, township, and county, and to the 24472
chief executive officer of each municipal corporation, in which 24473
the facility is or is proposed to be located. At the public 24474
meeting, the applicant shall provide information and describe the 24475
application and respond to comments or questions concerning the 24476
application, and the officer or employee of the agency shall 24477
describe the permit application process. At the public meeting, 24478
any person may submit written or oral comments on or objections to 24479
the application. Not more than thirty days after the public 24480
meeting, the applicant shall provide the director with a copy of a 24481
transcript of the full meeting, copies of any exhibits, displays, 24482
or other materials presented by the applicant at the meeting, and 24483
the original copy of any written comments submitted at the 24484
meeting. 24485

(e) Except as provided in division (A)(2)(f) of this section, 24486
prior to taking an action, other than a proposed or final denial, 24487
upon an application submitted under division (A)(2)(a) of this 24488
section for a permit to open a new or modify an existing solid 24489
waste facility, the director shall hold a public information 24490
session and a public hearing on the application within the county 24491

in which the new or modified solid waste facility is or is 24492
proposed to be located or within a contiguous county. If the 24493
application is for a permit to open a new solid waste facility, 24494
the director shall hold the hearing not less than fourteen days 24495
after the information session. If the application is for a permit 24496
to modify an existing solid waste facility, the director may hold 24497
both the information session and the hearing on the same day 24498
unless any individual affected by the application requests in 24499
writing that the information session and the hearing not be held 24500
on the same day, in which case the director shall hold the hearing 24501
not less than fourteen days after the information session. The 24502
director shall publish notice of the public information session or 24503
public hearing not less than thirty days before holding the 24504
information session or hearing, as applicable. The notice shall be 24505
published in each newspaper of general circulation that is 24506
published in the county in which the facility is or is proposed to 24507
be located. If no newspaper of general circulation is published in 24508
the county, the director shall publish the notice in a newspaper 24509
of general circulation in the county. The notice shall contain the 24510
date, time, and location of the information session or hearing, as 24511
applicable, and a general description of the proposed new or 24512
modified facility. At the public information session, an officer 24513
or employee of the environmental protection agency shall describe 24514
the status of the permit application and be available to respond 24515
to comments or questions concerning the application. At the public 24516
hearing, any person may submit written or oral comments on or 24517
objections to the approval of the application. The applicant, or a 24518
representative of the applicant who has knowledge of the location, 24519
construction, and operation of the facility, shall attend the 24520
information session and public hearing to respond to comments or 24521
questions concerning the facility directed to the applicant or 24522
representative by the officer or employee of the environmental 24523
protection agency presiding at the information session and 24524

hearing. 24525

(f) The solid waste management policy committee of a county 24526
or joint solid waste management district may adopt a resolution 24527
requesting expeditious consideration of a specific application 24528
submitted under division (A)(2)(a) of this section for a permit to 24529
modify an existing solid waste facility within the district. The 24530
resolution shall make the finding that expedited consideration of 24531
the application without the public information session and public 24532
hearing under division (A)(2)(e) of this section is in the public 24533
interest and will not endanger human health, as determined by the 24534
director by rules adopted in accordance with Chapter 119. of the 24535
Revised Code. Upon receiving such a resolution, the director, at 24536
the director's discretion, may issue a final action upon the 24537
application without holding a public information session or public 24538
hearing pursuant to division (A)(2)(e) of this section. 24539

(3) Except as provided in division (A)(10) of this section, 24540
and unless the owner or operator of any solid waste facility, 24541
other than a solid waste transfer facility or a compost facility 24542
that accepts exclusively source separated yard wastes, that 24543
commenced operation on or before July 1, 1968, has obtained an 24544
exemption from the requirements of division (A)(3) of this section 24545
in accordance with division (G) of section 3734.02 of the Revised 24546
Code, the owner or operator shall submit to the director an 24547
application for a permit with accompanying engineering detail 24548
plans, specifications, and information regarding the facility and 24549
its method of operation for approval under rules adopted under 24550
division (A) of section 3734.02 of the Revised Code and applicable 24551
rules adopted under division (D) of section 3734.12 of the Revised 24552
Code in accordance with the following schedule: 24553

(a) Not later than September 24, 1988, if the facility is 24554
located in the city of Garfield Heights or Parma in Cuyahoga 24555
county; 24556

(b) Not later than December 24, 1988, if the facility is 24557
located in Delaware, Greene, Guernsey, Hamilton, Madison, 24558
Mahoning, Ottawa, or Vinton county; 24559

(c) Not later than March 24, 1989, if the facility is located 24560
in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or 24561
Washington county, or is located in the city of Brooklyn or 24562
Cuyahoga Heights in Cuyahoga county; 24563

(d) Not later than June 24, 1989, if the facility is located 24564
in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or 24565
Summit county or is located in Cuyahoga county outside the cities 24566
of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights; 24567

(e) Not later than September 24, 1989, if the facility is 24568
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 24569
county; 24570

(f) Not later than December 24, 1989, if the facility is 24571
located in a county not listed in divisions (A)(3)(a) to (e) of 24572
this section; 24573

(g) Notwithstanding divisions (A)(3)(a) to (f) of this 24574
section, not later than December 31, 1990, if the facility is a 24575
solid waste facility owned by a generator of solid wastes when the 24576
solid waste facility exclusively disposes of solid wastes 24577
generated at one or more premises owned by the generator 24578
regardless of whether the facility is located on a premises where 24579
the wastes are generated and if the facility disposes of more than 24580
one hundred thousand tons of solid wastes per year, provided that 24581
any such facility shall be subject to division (A)(5) of this 24582
section. 24583

(4) Except as provided in divisions (A)(8), (9), and (10) of 24584
this section, unless the owner or operator of any solid waste 24585
facility for which a permit was issued after July 1, 1968, but 24586
before January 1, 1980, has obtained an exemption from the 24587

requirements of division (A)(4) of this section under division (G) 24588
of section 3734.02 of the Revised Code, the owner or operator 24589
shall submit to the director an application for a permit with 24590
accompanying engineering detail plans, specifications, and 24591
information regarding the facility and its method of operation for 24592
approval under those rules. 24593

(5) The director may issue an order in accordance with 24594
Chapter 3745. of the Revised Code to the owner or operator of a 24595
solid waste facility requiring the person to submit to the 24596
director updated engineering detail plans, specifications, and 24597
information regarding the facility and its method of operation for 24598
approval under rules adopted under division (A) of section 3734.02 24599
of the Revised Code and applicable rules adopted under division 24600
(D) of section 3734.12 of the Revised Code if, in the director's 24601
judgment, conditions at the facility constitute a substantial 24602
threat to public health or safety or are causing or contributing 24603
to or threatening to cause or contribute to air or water pollution 24604
or soil contamination. Any person who receives such an order shall 24605
submit the updated engineering detail plans, specifications, and 24606
information to the director within one hundred eighty days after 24607
the effective date of the order. 24608

(6) The director shall act upon an application submitted 24609
under division (A)(3) or (4) of this section and any updated 24610
engineering plans, specifications, and information submitted under 24611
division (A)(5) of this section within one hundred eighty days 24612
after receiving them. If the director denies any such permit 24613
application, the order denying the application or disapproving the 24614
plans shall include the requirements that the owner or operator 24615
submit a plan for closure and post-closure care of the facility to 24616
the director for approval within six months after issuance of the 24617
order, cease accepting solid wastes for disposal or transfer at 24618
the facility, and commence closure of the facility not later than 24619

one year after issuance of the order. If the director determines 24620
that closure of the facility within that one-year period would 24621
result in the unavailability of sufficient solid waste management 24622
facility capacity within the county or joint solid waste 24623
management district in which the facility is located to dispose of 24624
or transfer the solid waste generated within the district, the 24625
director in the order of denial or disapproval may postpone 24626
commencement of closure of the facility for such period of time as 24627
the director finds necessary for the board of county commissioners 24628
or directors of the district to secure access to or for there to 24629
be constructed within the district sufficient solid waste 24630
management facility capacity to meet the needs of the district, 24631
provided that the director shall certify in the director's order 24632
that postponing the date for commencement of closure will not 24633
endanger ground water or any property surrounding the facility, 24634
allow methane gas migration to occur, or cause or contribute to 24635
any other type of environmental damage. 24636

If an emergency need for disposal capacity that may affect 24637
public health and safety exists as a result of closure of a 24638
facility under division (A)(6) of this section, the director may 24639
issue an order designating another solid waste facility to accept 24640
the wastes that would have been disposed of at the facility to be 24641
closed. 24642

(7) If the director determines that standards more stringent 24643
than those applicable in rules adopted under division (A) of 24644
section 3734.02 of the Revised Code and division (D) of section 24645
3734.12 of the Revised Code, or standards pertaining to subjects 24646
not specifically addressed by those rules, are necessary to ensure 24647
that a solid waste facility constructed at the proposed location 24648
will not cause a nuisance, cause or contribute to water pollution, 24649
or endanger public health or safety, the director may issue a 24650
permit for the facility with such terms and conditions as the 24651

director finds necessary to protect public health and safety and 24652
the environment. If a permit is issued, the director shall state 24653
in the order issuing it the specific findings supporting each such 24654
term or condition. 24655

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do 24656
not apply to a solid waste compost facility that accepts 24657
exclusively source separated yard wastes and that is registered 24658
under division (C) of section 3734.02 of the Revised Code or, 24659
unless otherwise provided in rules adopted under division (N)(3) 24660
of section 3734.02 of the Revised Code, to a solid waste compost 24661
facility if the director has adopted rules establishing an 24662
alternative system for authorizing the establishment, operation, 24663
or modification of a solid waste compost facility under that 24664
division. 24665

(9) Divisions (A)(1) to (7) of this section do not apply to 24666
scrap tire collection, storage, monocell, monofill, and recovery 24667
facilities. The approval of plans and specifications, as 24668
applicable, and the issuance of registration certificates, 24669
permits, and licenses for those facilities are subject to sections 24670
3734.75 to 3734.78 of the Revised Code, as applicable, and section 24671
3734.81 of the Revised Code. 24672

(10) Divisions (A)(3) and (4) of this section do not apply to 24673
a solid waste incinerator that was placed into operation on or 24674
before October 12, 1994, and that is not authorized to accept and 24675
treat infectious wastes pursuant to division (B) of this section. 24676

(B)(1) Each person who is engaged in the business of treating 24677
infectious wastes for profit at a treatment facility located off 24678
the premises where the wastes are generated that is in operation 24679
on August 10, 1988, and who proposes to continue operating the 24680
facility shall submit to the board of health of the health 24681
district in which the facility is located an application for a 24682
license to operate the facility. 24683

Thereafter, no person shall operate or maintain an infectious waste treatment facility without a license issued by the board of health of the health district in which the facility is located or by the director when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code.

(2)(a) During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing infectious waste treatment facility shall procure a license to operate the facility for that year from the board of health of the health district in which the facility is located or, if the health district is not on the approved list under section 3734.08 of the Revised Code, from the director. The application for such a license shall be submitted to the board of health or to the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. In addition to the application fee prescribed in division (B)(2)(c) of this section, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the application is late. Late payment fees accompanying an application submitted to the board of health shall be credited to the special infectious waste fund of the health district created in division (C) of section 3734.06 of the Revised Code, and late payment fees accompanying an application submitted to the director shall be credited to the general revenue fund. A person who has received a license, upon sale or disposition of an infectious waste treatment facility and upon consent of the board of health and the director, may have the license transferred to another person. The board of health or the director may include such terms and conditions in a license or revision to a license as are appropriate to ensure compliance with the infectious waste provisions of this chapter

and rules adopted under them. 24716

(b) Each person proposing to open a new infectious waste 24717
treatment facility or to modify an existing infectious waste 24718
treatment facility shall submit an application for a permit with 24719
accompanying detail plans and specifications to the environmental 24720
protection agency for required approval under the rules adopted by 24721
the director pursuant to section 3734.021 of the Revised Code two 24722
hundred seventy days before proposed operation of the facility and 24723
concurrently shall make application for a license with the board 24724
of health of the health district in which the facility is or is 24725
proposed to be located. Not later than ninety days after receiving 24726
a completed application under division (B)(2)(b) of this section 24727
for a permit to open a new infectious waste treatment facility or 24728
modify an existing infectious waste treatment facility to expand 24729
its treatment capacity, or receiving a completed application under 24730
division (A)(2)(a) of this section for a permit to open a new 24731
solid waste incineration facility, or modify an existing solid 24732
waste incineration facility to also treat infectious wastes or to 24733
increase its infectious waste treatment capacity, that pertains to 24734
a facility for which a notation authorizing infectious waste 24735
treatment is included or proposed to be included in the solid 24736
waste incineration facility's license pursuant to division (B)(3) 24737
of this section, the director shall hold a public hearing on the 24738
application within the county in which the new or modified 24739
infectious waste or solid waste facility is or is proposed to be 24740
located or within a contiguous county. Not less than thirty days 24741
before holding the public hearing on the application, the director 24742
shall publish notice of the hearing in each newspaper that has 24743
general circulation and that is published in the county in which 24744
the facility is or is proposed to be located. If there is no 24745
newspaper that has general circulation and that is published in 24746
the county, the director shall publish the notice in a newspaper 24747
of general circulation in the county. The notice shall contain the 24748

date, time, and location of the public hearing and a general 24749
description of the proposed new or modified facility. At the 24750
public hearing, any person may submit written or oral comments on 24751
or objections to the approval or disapproval of the application. 24752
The applicant, or a representative of the applicant who has 24753
knowledge of the location, construction, and operation of the 24754
facility, shall attend the public hearing to respond to comments 24755
or questions concerning the facility directed to the applicant or 24756
representative by the officer or employee of the environmental 24757
protection agency presiding at the hearing. 24758

(c) Each application for a permit under division (B)(2)(b) of 24759
this section shall be accompanied by a nonrefundable application 24760
fee of four hundred dollars that shall be credited to the general 24761
revenue fund. Each application for an annual license under 24762
division (B)(2)(a) of this section shall be accompanied by a 24763
nonrefundable application fee of one hundred dollars. If the 24764
application for an annual license is submitted to a board of 24765
health on the approved list under section 3734.08 of the Revised 24766
Code, the application fee shall be credited to the special 24767
infectious waste fund of the health district created in division 24768
(C) of section 3734.06 of the Revised Code. If the application for 24769
an annual license is submitted to the director, the application 24770
fee shall be credited to the general revenue fund. If a permit or 24771
license is issued, the amount of the application fee paid shall be 24772
deducted from the amount of the permit fee due under division (Q) 24773
of section 3745.11 of the Revised Code or the amount of the 24774
license fee due under division (C) of section 3734.06 of the 24775
Revised Code. 24776

(d) The owner or operator of any infectious waste treatment 24777
facility that commenced operation on or before July 1, 1968, shall 24778
submit to the director an application for a permit with 24779
accompanying engineering detail plans, specifications, and 24780

information regarding the facility and its method of operation for 24781
approval under rules adopted under section 3734.021 of the Revised 24782
Code in accordance with the following schedule: 24783

(i) Not later than December 24, 1988, if the facility is 24784
located in Delaware, Greene, Guernsey, Hamilton, Madison, 24785
Mahoning, Ottawa, or Vinton county; 24786

(ii) Not later than March 24, 1989, if the facility is 24787
located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, 24788
or Washington county, or is located in the city of Brooklyn, 24789
Cuyahoga Heights, or Parma in Cuyahoga county; 24790

(iii) Not later than June 24, 1989, if the facility is 24791
located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, 24792
Lucas, or Summit county or is located in Cuyahoga county outside 24793
the cities of Brooklyn, Cuyahoga Heights, and Parma; 24794

(iv) Not later than September 24, 1989, if the facility is 24795
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 24796
county; 24797

(v) Not later than December 24, 1989, if the facility is 24798
located in a county not listed in divisions (B)(2)(d)(i) to (iv) 24799
of this section. 24800

The owner or operator of an infectious waste treatment 24801
facility required to submit a permit application under division 24802
(B)(2)(d) of this section is not required to pay any permit 24803
application fee under division (B)(2)(c) of this section, or 24804
permit fee under division (Q) of section 3745.11 of the Revised 24805
Code, with respect thereto unless the owner or operator also 24806
proposes to modify the facility. 24807

(e) The director may issue an order in accordance with 24808
Chapter 3745. of the Revised Code to the owner or operator of an 24809
infectious waste treatment facility requiring the person to submit 24810
to the director updated engineering detail plans, specifications, 24811

and information regarding the facility and its method of operation 24812
for approval under rules adopted under section 3734.021 of the 24813
Revised Code if, in the director's judgment, conditions at the 24814
facility constitute a substantial threat to public health or 24815
safety or are causing or contributing to or threatening to cause 24816
or contribute to air or water pollution or soil contamination. Any 24817
person who receives such an order shall submit the updated 24818
engineering detail plans, specifications, and information to the 24819
director within one hundred eighty days after the effective date 24820
of the order. 24821

(f) The director shall act upon an application submitted 24822
under division (B)(2)(d) of this section and any updated 24823
engineering plans, specifications, and information submitted under 24824
division (B)(2)(e) of this section within one hundred eighty days 24825
after receiving them. If the director denies any such permit 24826
application or disapproves any such updated engineering plans, 24827
specifications, and information, the director shall include in the 24828
order denying the application or disapproving the plans the 24829
requirement that the owner or operator cease accepting infectious 24830
wastes for treatment at the facility. 24831

(3) Division (B) of this section does not apply to an 24832
infectious waste treatment facility that meets any of the 24833
following conditions: 24834

(a) Is owned or operated by the generator of the wastes and 24835
exclusively treats, by methods, techniques, and practices 24836
established by rules adopted under division (C)(1) or (3) of 24837
section 3734.021 of the Revised Code, wastes that are generated at 24838
any premises owned or operated by that generator regardless of 24839
whether the wastes are generated on the same premises where the 24840
generator's treatment facility is located or, if the generator is 24841
a hospital as defined in section 3727.01 of the Revised Code, 24842
infectious wastes that are described in division (A)(1)(g), (h), 24843

or (i) of section 3734.021 of the Revised Code; 24844

(b) Holds a license or renewal of a license to operate a 24845
crematory facility issued under Chapter 4717. and a permit issued 24846
under Chapter 3704. of the Revised Code; 24847

(c) Treats or disposes of dead animals or parts thereof, or 24848
the blood of animals, and is subject to any of the following: 24849

(i) Inspection under the "Federal Meat Inspection Act," 81 24850
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 24851

(ii) Chapter 918. of the Revised Code; 24852

(iii) Chapter 953. of the Revised Code. 24853

Nothing in division (B) of this section requires a facility 24854
that holds a license issued under division (A) of this section as 24855
a solid waste facility and that also treats infectious wastes by 24856
the same method, technique, or process to obtain a license under 24857
division (B) of this section as an infectious waste treatment 24858
facility. However, the solid waste facility license for the 24859
facility shall include the notation that the facility also treats 24860
infectious wastes. 24861

On and after the effective date of the amendments to the 24862
rules adopted under division (C)(2) of section 3734.021 of the 24863
Revised Code that are required by Section 6 of Substitute House 24864
Bill No. 98 of the 120th General Assembly, the director shall not 24865
issue a permit to open a new solid waste incineration facility 24866
unless the proposed facility complies with the requirements for 24867
the location of new infectious waste incineration facilities 24868
established in the required amendments to those rules. 24869

(C) Except for a facility or activity described in division 24870
(E)(3) of section 3734.02 of the Revised Code, a person who 24871
proposes to establish or operate a hazardous waste facility shall 24872
submit ~~an~~ a complete application for a hazardous waste facility 24873

installation and operation permit and accompanying detail plans, 24874
specifications, and such information as the director may require 24875
to the environmental protection agency, ~~except as provided in~~ 24876
~~division (E)(2) of this section,~~ at least one hundred eighty days 24877
before the proposed beginning of operation of the facility. The 24878
applicant shall notify by certified mail the legislative authority 24879
of each municipal corporation, township, and county in which the 24880
facility is proposed to be located of the submission of the 24881
application within ten days after the submission or at such 24882
earlier time as the director may establish by rule. If the 24883
application is for a proposed new hazardous waste disposal or 24884
thermal treatment facility, the applicant also shall give actual 24885
notice of the general design and purpose of the facility to the 24886
legislative authority of each municipal corporation, township, and 24887
county in which the facility is proposed to be located at least 24888
ninety days before the permit application is submitted to the 24889
environmental protection agency. 24890

In accordance with rules adopted under section 3734.12 of the 24891
Revised Code, prior to the submission of a complete application 24892
for a hazardous waste facility installation and operation permit, 24893
the applicant shall hold at least one meeting in the township or 24894
municipal corporation in which the facility is proposed to be 24895
located, whichever is geographically closer to the proposed 24896
location of the facility. The meeting shall be open to the public 24897
and shall be held to inform the community of the proposed 24898
hazardous waste management activities and to solicit questions 24899
from the community concerning the activities. 24900

~~(D)(1) There is hereby created the hazardous waste facility~~ 24901
~~board, composed of the director of environmental protection who~~ 24902
~~shall serve as chairperson, the director of natural resources, and~~ 24903
~~the chairperson of the Ohio water development authority, or their~~ 24904
~~respective designees, and one chemical engineer and one geologist~~ 24905

~~who each shall be employed by a state university as defined in 24906
section 3345.011 of the Revised Code. The chemical engineer and 24907
geologist each shall be appointed by the governor, with the advice 24908
and consent of the senate, for a term of two years. The chemical 24909
engineer and geologist each shall receive as compensation five 24910
thousand dollars per year, plus expenses necessarily incurred in 24911
the performance of their duties. 24912~~

~~The board shall not issue any final order without the consent 24913
of at least three members. 24914~~

~~(2) The hazardous waste facility board shall do both of the 24915
following: 24916~~

~~(a) Pursuant to Chapter 119. of the Revised Code, adopt rules 24917
governing procedure to be followed in hearings before the board: 24918~~

~~(b) Except as provided in section 3734.123 of the Revised 24919
Code, approve or disapprove applications for a hazardous waste 24920
facility installation and operation permit for new facilities and 24921
applications for modifications to existing permits for which the 24922
board has jurisdiction as provided in division (I)(3) of this 24923
section. 24924~~

~~(3) Except as provided in section 3734.123 of the Revised 24925
Code, upon receipt of the completed application for a hazardous 24926
waste facility installation and operation permit and a preliminary 24927
determination by the staff of the environmental protection agency 24928
that the application appears to comply with agency rules and to 24929
meet the performance standards set forth in divisions (D), (I), 24930
and (J) of section 3734.12 of the Revised Code, the director shall 24931
transmit the application to the board, which shall do all of the 24932
following: 24933~~

~~(a) Promptly fix a date for a public hearing on the 24934
application, not fewer than sixty nor more than ninety days after 24935
receipt of the completed application. At the public hearing, any 24936~~

~~person may submit written or oral comments or objections to the 24937
approval or disapproval of the application. A representative of 24938
the applicant who has knowledge of the location, construction, 24939
operation, closure, and post closure care, if applicable, of the 24940
facility shall attend the public hearing in order to respond to 24941
comments or questions concerning the facility directed to the 24942
representative by the presiding officer. 24943~~

~~(b) Give public notice of the date of the public hearing and 24944
a summary of the application in a newspaper having general 24945
circulation in the county in which the facility is proposed to be 24946
located. The notice shall contain, at a minimum, the date, time, 24947
and location of the public hearing and shall include the location 24948
and street address of, or the nearest intersection to, the 24949
proposed facility, a description of the proposed facility, and the 24950
location where copies of the application, a short statement by the 24951
applicant of the anticipated environmental impact of the facility, 24952
and a map of the facility are available for inspection. 24953~~

~~(c) Promptly fix a date for an adjudication hearing, not 24954
fewer than ninety nor more than one hundred twenty days after 24955
receipt of the completed application, at which hearing the board 24956
shall hear and decide all disputed issues between the parties 24957
respecting the approval or disapproval of the application. 24958~~

~~(4) The parties to any adjudication hearing before the board 24959
upon a completed application shall be the following: 24960~~

~~(a) The applicant; 24961~~

~~(b) The staff of the environmental protection agency; 24962~~

~~(c) The board of county commissioners of the county, the 24963
board of township trustees of the township, and the chief 24964
executive officer of the municipal corporation in which the 24965
facility is proposed to be located; 24966~~

~~(d) Any other person who would be aggrieved or adversely 24967~~

~~affected by the proposed facility and who files a petition to 24968
intervene in the adjudication hearing not later than thirty days 24969
after the date of publication of the notice required in division 24970
(D)(3)(b) of this section if the petition is granted by the board 24971
for good cause shown. The board may allow intervention by other 24972
aggrieved or adversely affected persons up to fifteen days prior 24973
to the date of the adjudication hearing for good cause shown when 24974
the intervention would not be unduly burdensome to or cause a 24975
delay in the permitting process. 24976~~

~~(5) The hazardous waste facility board shall conduct any 24977
adjudication hearing upon disputed issues in accordance with 24978
Chapter 119. of the Revised Code and the rules of the board 24979
governing the procedure of such hearings. Each party may call and 24980
examine witnesses and submit other evidence respecting the 24981
disputed issues presented by an application. A written record 24982
shall be made of the hearing and of all testimony and evidence 24983
submitted to the board upon receipt of a complete application for 24984
a hazardous waste facility installation and operation permit under 24985
division (C) of this section, the director shall consider the 24986
application and accompanying information to determine whether the 24987
application complies with agency rules and the requirements of 24988
division (D)(2) of this section. After making a determination, the 24989
director shall issue either a draft permit or a notice of intent 24990
to deny the permit. The director, in accordance with rules adopted 24991
under section 3734.12 of the Revised Code or with rules adopted to 24992
implement Chapter 3745. of the Revised Code, shall provide public 24993
notice of the application and the draft permit or the notice of 24994
intent to deny the permit, provide an opportunity for public 24995
comments, and, if significant interest is shown, schedule a public 24996
meeting in the county in which the facility is proposed to be 24997
located and give public notice of the date, time, and location of 24998
the public meeting in a newspaper of general circulation in that 24999
county. 25000~~

~~(6)(2)~~ The ~~board~~ director shall not approve an application 25001
for a hazardous waste facility installation and operation permit 25002
or an application for a modification under division (I)(3) of this 25003
section unless ~~it~~ the director finds and determines as follows: 25004

(a) The nature and volume of the waste to be treated, stored, 25005
or disposed of at the facility; 25006

(b) That the facility complies with the director's hazardous 25007
waste standards adopted pursuant to section 3734.12 of the Revised 25008
Code; 25009

(c) That the facility represents the minimum adverse 25010
environmental impact, considering the state of available 25011
technology and the nature and economics of various alternatives, 25012
and other pertinent considerations; 25013

(d) That the facility represents the minimum risk of all of 25014
the following: 25015

(i) ~~Contamination of ground and surface waters;~~ 25016

~~(ii)~~ Fires or explosions from treatment, storage, or disposal 25017
methods; 25018

~~(iii) Accident~~ (ii) Release of hazardous waste during 25019
transportation of hazardous waste to or from the facility; 25020

~~(iv) Impact~~ (iii) Adverse impact on the public health and 25021
safety; 25022

~~(v) Air pollution;~~ 25023

~~(vi) Soil contamination.~~ 25024

(e) That the facility will comply with this chapter and 25025
Chapters 3704., ~~3734.~~, and 6111. of the Revised Code and all rules 25026
and standards adopted under ~~those chapters~~ them; 25027

(f) That if the owner of the facility, the operator of the 25028
facility, or any other person in a position with the facility from 25029

which the person may influence the installation and operation of 25030
the facility has been involved in any prior activity involving 25031
transportation, treatment, storage, or disposal of hazardous 25032
waste, that person has a history of compliance with this chapter 25033
and Chapters 3704., ~~3734.~~, and 6111. of the Revised Code and all 25034
rules and standards adopted under ~~those chapters~~ them, the 25035
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 25036
42 U.S.C.A. 6921, as amended, and all regulations adopted under 25037
it, and similar laws and rules of other states if any such prior 25038
operation was located in another state that demonstrates 25039
sufficient reliability, expertise, and competency to operate a 25040
hazardous waste facility under the applicable provisions of this 25041
chapter and Chapters 3704., ~~3734.~~, and 6111. of the Revised Code, 25042
the applicable rules and standards adopted under ~~those chapters~~ 25043
them, and terms and conditions of a hazardous waste facility 25044
installation and operation permit, given the potential for harm to 25045
the public health and safety and the environment that could result 25046
from the irresponsible operation of the facility~~†~~. For off-site 25047
facilities, as defined in section 3734.41 of the Revised Code, the 25048
director may use the investigative reports of the attorney general 25049
prepared pursuant to section 3734.42 of the Revised Code as a 25050
basis for making a finding and determination under division 25051
(D)(2)(f) of this section. 25052

(g) That the active areas within a new hazardous waste 25053
facility where acute hazardous waste as listed in 40 C.F.R. 261.33 25054
(e), as amended, or organic waste that is toxic and is listed 25055
under 40 C.F.R. 261, as amended, is being stored, treated, or 25056
disposed of and where the aggregate of the storage design capacity 25057
and the disposal design capacity of all hazardous waste in those 25058
areas is greater than two hundred fifty thousand gallons, are not 25059
located or operated within any of the following: 25060

(i) Two thousand feet of any residence, school, hospital, 25061

jail, or prison; 25062

(ii) Any naturally occurring wetland; 25063

(iii) Any flood hazard area if the applicant cannot show that 25064
the facility will be designed, constructed, operated, and 25065
maintained to prevent washout by a one-hundred-year flood ~~or that~~ 25066
~~procedures will be in effect to remove the waste before flood~~ 25067
~~waters can reach it.~~ 25068

Division (D)~~(6)~~(2)(g) of this section does not apply to the 25069
facility of any applicant who demonstrates to the ~~board~~ director 25070
that the limitations specified in that division are not necessary 25071
because of the nature or volume of the waste and the manner of 25072
management applied, the facility will impose no substantial danger 25073
to the health and safety of persons occupying the structures 25074
listed in division (D)~~(6)~~(2)(g)(i) of this section, and the 25075
facility is to be located or operated in an area where the 25076
proposed hazardous waste activities will not be incompatible with 25077
existing land uses in the area. 25078

(h) That the facility will not be located within the 25079
boundaries of a state park established or dedicated under Chapter 25080
1541. of the Revised Code, a state park purchase area established 25081
under section 1541.02 of the Revised Code, any unit of the 25082
national park system, or any property that lies within the 25083
boundaries of a national park or recreation area, but that has not 25084
been acquired or is not administered by the secretary of the 25085
United States department of the interior, located in this state, 25086
or any candidate area located in this state identified for 25087
potential inclusion in the national park system in the edition of 25088
the "national park system plan" submitted under paragraph (b) of 25089
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 25090
U.S.C.A. 1a-5, as amended, current at the time of filing of the 25091
application for the permit, unless the facility will be used 25092
exclusively for the storage of hazardous waste generated within 25093

the park or recreation area in conjunction with the operation of 25094
the park or recreation area. Division (D)~~(6)~~(2)(h) of this section 25095
does not apply to the facility of any applicant for modification 25096
of a permit unless the modification application proposes to 25097
increase the land area included in the facility or to increase the 25098
quantity of hazardous waste that will be treated, stored, or 25099
disposed of at the facility. 25100

~~In rendering a decision upon an application for a hazardous 25101
waste facility installation and operation permit, the board shall 25102
issue a written order and opinion, which shall include the 25103
specific findings of fact and conclusions of law that support the 25104
board's approval or disapproval of the application. 25105~~

(3) Not later than one hundred eighty days after the end of 25106
the public comment period, the director, without prior hearing, 25107
shall issue or deny the permit in accordance with Chapter 3745. of 25108
the Revised Code. If the ~~board~~ director approves an application 25109
for a hazardous waste facility installation and operation permit, 25110
~~as a part of its written order, it~~ the director shall issue the 25111
permit, upon such terms and conditions as the ~~board~~ director finds 25112
are necessary to ensure the construction and operation of the 25113
hazardous waste facility in accordance with the standards of this 25114
section. 25115

~~(7) Any party adversely affected by an order of the hazardous 25116
waste facility board may appeal the order and decision of the 25117
board to the court of appeals of Franklin county. An appellant 25118
shall file with the board a notice of appeal, which shall 25119
designate the order appealed from. A copy of the notice also shall 25120
be filed by the appellant with the court, and a copy shall be sent 25121
by certified mail to each party to the adjudication hearing before 25122
the board. Such notices shall be filed and mailed within thirty 25123
days after the date upon which the appellant received notice from 25124
the board by certified mail of the making of the order appealed 25125~~

~~from. No appeal bond shall be required to make an appeal effective.~~ 25126
25127

~~The filing of a notice of appeal shall not operate automatically as a suspension of the order of the board. If it appears to the court that an unjust hardship to the appellant will result from the execution of the board's order pending determination of the appeal, the court may grant a suspension of the order and fix its terms.~~ 25128
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~~Within twenty days after receipt of the notice of appeal, the board shall prepare and file in the court the complete record of proceedings out of which the appeal arises, including any transcript of the testimony and any other evidence that has been submitted before the board. The expense of preparing and transcribing the record shall be taxed as a part of the costs of the appeal. The appellant, other than the state or a political subdivision, an agency of either, or any officer of the appellant acting in the officer's representative capacity, shall provide security for costs satisfactory to the court considering the respective interests of the parties and the public interest. Upon demand by a party, the board shall furnish, at the cost of the party requesting it, a copy of the record. If the complete record is not filed within the time provided for in this section, any party may apply to the court to have the case docketed, and the court shall order the record filed.~~ 25134
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~~In hearing the appeal, the court is confined to the record as certified to it by the board. The court may grant a request for the admission of additional evidence when satisfied that the additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the board.~~ 25150
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~~The court shall affirm the order complained of in the appeal if it finds, upon consideration of the entire record and such~~ 25156
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~~additional evidence as the court has admitted, that the order is 25158
supported by reliable, probative, and substantial evidence and is 25159
in accordance with law. In the absence of such findings, it shall 25160
reverse, vacate, or modify the order or make such other ruling as 25161
is supported by reliable, probative, and substantial evidence and 25162
is in accordance with law. The judgment of the court shall be 25163
final and conclusive unless reversed, vacated, or modified on 25164
appeal. Such appeals may be taken by any party to the appeal 25165
pursuant to the Rules of Practice of the Supreme Court and, to the 25166
extent not in conflict with those rules, Chapter 2505. of the 25167
Revised Code. 25168~~

~~(E)(1) Upon receipt of a completed application, the board 25169
shall issue a hazardous waste facility installation and operation 25170
permit for a hazardous waste facility subject to the requirements 25171
of divisions (D)(6) and (7) of this section and all applicable 25172
federal regulations if the facility for which the permit is 25173
requested satisfies all of the following: 25174~~

~~(a) Was in operation immediately prior to October 9, 1980; 25175~~

~~(b) Was in substantial compliance with applicable statutes 25176
and rules in effect immediately prior to October 9, 1980, as 25177
determined by the director; 25178~~

~~(c) Demonstrates to the board that its operations after 25179
October 9, 1980, comply with applicable performance standards 25180
adopted by the director pursuant to division (D) of section 25181
3734.12 of the Revised Code; 25182~~

~~(d) Submits a completed application for a permit under 25183
division (C) of this section within six months after October 9, 25184
1980. 25185~~

~~The board shall act on the application within twelve months 25186
after October 9, 1980. 25187~~

~~(2) A hazardous waste facility that was in operation 25188~~

~~immediately prior to October 9, 1980, may continue to operate~~ 25189
~~after that date if it does all of the following:~~ 25190

~~(a) Complies with performance standards adopted by the~~ 25191
~~director pursuant to division (D) of section 3734.12 of the~~ 25192
~~Revised Code;~~ 25193

~~(b) Submits a completed application for a hazardous waste~~ 25194
~~installation and operation permit under division (C) of this~~ 25195
~~section within six months after October 9, 1980;~~ 25196

~~(c) Obtains the permit under division (D) of this section~~ 25197
~~within twelve months after October 9, 1980.~~ 25198

~~(3) No political subdivision of this state shall require any~~ 25199
~~additional zoning or other approval, consent, permit, certificate,~~ 25200
~~or condition for the construction or operation of a hazardous~~ 25201
~~waste facility authorized by a hazardous waste facility~~ 25202
~~installation and operation permit issued pursuant to this chapter,~~ 25203
~~nor shall any political subdivision adopt or enforce any law,~~ 25204
~~ordinance, or rule that in any way alters, impairs, or limits the~~ 25205
~~authority granted in the permit.~~ 25206

~~(4) After the issuance of a hazardous waste facility~~ 25207
~~installation and operation permit by the board, each hazardous~~ 25208
~~waste facility shall be subject to the rules and supervision of~~ 25209
~~the director during the period of its operation, closure, and~~ 25210
~~post closure care, if applicable.~~ 25211

~~(F) Upon approval of the board in accordance with divisions~~ 25212
~~(D) and (E) of this section, the board The director may issue a~~ 25213
~~single hazardous waste facility installation and operation permit~~ 25214
~~to a person who operates two or more adjoining facilities where~~ 25215
~~hazardous waste is stored, treated, or disposed of if the~~ 25216
~~application includes detail plans, specifications, and information~~ 25217
~~on all facilities. For the purposes of this section, "adjoining"~~ 25218
~~means sharing a common boundary, separated only by a public road,~~ 25219

or in such proximity that the director determines that the 25220
issuance of a single permit will not create a hazard to the public 25221
health or safety or the environment. 25222

(G) No person shall falsify or fail to keep or submit any 25223
plans, specifications, data, reports, records, manifests, or other 25224
information required to be kept or submitted to the director ~~or to~~ 25225
~~the hazardous waste facility board~~ by this chapter or the rules 25226
adopted under it. 25227

(H)(1) Each person who holds an installation and operation 25228
permit issued under this section and who wishes to obtain a permit 25229
renewal shall submit a completed application for an installation 25230
and operation permit renewal and any necessary accompanying 25231
general plans, detail plans, specifications, and such information 25232
as the director may require to the director no later than one 25233
hundred eighty days prior to the expiration date of the existing 25234
permit or upon a later date prior to the expiration of the 25235
existing permit if the permittee can demonstrate good cause for 25236
the late submittal. The director shall consider the application 25237
and accompanying information, inspection reports of the facility, 25238
results of performance tests, a report regarding the facility's 25239
compliance or noncompliance with the terms and conditions of its 25240
permit and rules adopted by the director under this chapter, and 25241
such other information as is relevant to the operation of the 25242
facility and shall issue a draft renewal permit or a notice of 25243
intent to deny the renewal permit. The director, in accordance 25244
with rules adopted under this section or with rules adopted to 25245
implement Chapter 3745. of the Revised Code, shall give public 25246
notice of the application and draft renewal permit or notice of 25247
intent to deny the renewal permit, provide for the opportunity for 25248
public comments within a specified time period, schedule a public 25249
meeting in the county in which the facility is located if 25250
significant interest is shown, and give public notice of the 25251

public meeting. 25252

(2) Within sixty days after the public meeting or close of 25253
the public comment period, the director, without prior hearing, 25254
shall issue or deny the renewal permit in accordance with Chapter 25255
3745. of the Revised Code. The director shall not issue a renewal 25256
permit unless the director determines that the facility under the 25257
existing permit has a history of compliance with this chapter, 25258
rules adopted under it, the existing permit, or orders entered to 25259
enforce such requirements that demonstrates sufficient 25260
reliability, expertise, and competency to operate the facility 25261
henceforth under this chapter, rules adopted under it, and the 25262
renewal permit. If the director approves an application for a 25263
renewal permit, the director shall issue the permit subject to the 25264
payment of the annual permit fee required under division (E) of 25265
section 3734.02 of the Revised Code and upon such terms and 25266
conditions as the director finds are reasonable to ensure that 25267
continued operation, maintenance, closure, and post-closure care 25268
of the hazardous waste facility are in accordance with the rules 25269
adopted under section 3734.12 of the Revised Code. 25270

(3) An installation and operation permit renewal application 25271
submitted to the director that also contains or would constitute 25272
an application for a modification shall be acted upon by the 25273
director in accordance with division (I) of this section in the 25274
same manner as an application for a modification. In approving or 25275
disapproving the renewal portion of a permit renewal application 25276
containing an application for a modification, the director shall 25277
apply the criteria established under division (H)(2) of this 25278
section. 25279

(4) An application for renewal or modification of a permit 25280
that does not contain an application for a modification as 25281
described in divisions (I)(3)(a) to (d) of this section shall not 25282
be subject to division (D)(2) of this section. 25283

(I)(1) As used in this section, "modification" means a change 25284
or alteration to a hazardous waste facility or its operations that 25285
is inconsistent with or not authorized by its existing permit or 25286
authorization to operate. Modifications shall be classified as 25287
Class 1, 2, or 3 modifications in accordance with rules adopted 25288
under division (K) of this section. Modifications classified as 25289
Class 3 modifications, in accordance with rules adopted under that 25290
division, shall be further classified by the director as either 25291
Class 3 modifications that are to be approved or disapproved by 25292
the ~~hazardous waste facility board as described in~~ director under 25293
divisions (I)(3)(a) to (d) of this section or as Class 3 25294
modifications that are to be approved or disapproved by the 25295
director under division (I)(5) of this section. Not later than 25296
thirty days after receiving a request for a modification under 25297
division (I)(4) of this section that is not listed in Appendix I 25298
to 40 C.F.R. 270.42 or in rules adopted under division (K) of this 25299
section, the director shall classify the modification and shall 25300
notify the owner or operator of the facility requesting the 25301
modification of the classification. Notwithstanding any other law 25302
to the contrary, any modification that involves the transfer of a 25303
hazardous waste facility installation and operation permit to a 25304
new owner or operator shall be classified as a Class 3 25305
modification. 25306

(2) Except as provided in section 3734.123 of the Revised 25307
Code, a hazardous waste facility installation and operation permit 25308
may be modified at the request of the director or upon the written 25309
request of the permittee only if any of the following applies: 25310

(a) The permittee desires to accomplish alterations, 25311
additions, or deletions to the permitted facility or to undertake 25312
alterations, additions, deletions, or activities that are 25313
inconsistent with or not authorized by the existing permit; 25314

(b) New information or data justify permit conditions in 25315

addition to or different from those in the existing permit; 25316

(c) The standards, criteria, or rules upon which the existing 25317
permit is based have been changed by new, amended, or rescinded 25318
standards, criteria, or rules, or by judicial decision after the 25319
existing permit was issued, and the change justifies permit 25320
conditions in addition to or different from those in the existing 25321
permit; 25322

(d) The permittee proposes to transfer the permit to another 25323
person. 25324

(3) The director ~~has jurisdiction to~~ shall approve or 25325
disapprove ~~applications~~ an application for ~~Class 1 modifications,~~ 25326
~~Class 2 modifications, and Class 3 modifications not otherwise~~ 25327
~~described in divisions (I)(3)(a) to (d) of this section. The~~ 25328
~~hazardous waste facility board has jurisdiction to approve or~~ 25329
~~disapprove applications for any~~ a modification in accordance with 25330
division (D)(2) of this section and rules adopted under division 25331
(K) of this section for all of the following categories of Class 3 25332
modifications: 25333

(a) Authority to conduct treatment, storage, or disposal at a 25334
site, location, or tract of land that has not been authorized for 25335
the proposed category of treatment, storage, or disposal activity 25336
by the facility's permit; 25337

(b) Modification or addition of a hazardous waste management 25338
unit, as defined in rules adopted under section 3734.12 of the 25339
Revised Code, that results in an increase in a facility's storage 25340
capacity of more than twenty-five per cent over the capacity 25341
authorized by the facility's permit, an increase in a facility's 25342
treatment rate of more than twenty-five per cent over the rate so 25343
authorized, or an increase in a facility's disposal capacity over 25344
the capacity so authorized. The authorized disposal capacity for a 25345
facility shall be calculated from the approved design plans for 25346

the disposal units at that facility. In no case during a five-year 25347
period shall a facility's storage capacity or treatment rate be 25348
modified to increase by more than twenty-five per cent in the 25349
aggregate without ~~board~~ the director's approval in accordance with 25350
division (D)(2) of this section. Notwithstanding any provision of 25351
division (I) of this section to the contrary, a request for 25352
modification of a facility's annual total waste receipt limit 25353
shall be classified and approved or disapproved by the director 25354
under division (I)(5) of this section. 25355

(c) Authority to add any of the following categories of 25356
regulated activities not previously authorized at a facility by 25357
the facility's permit: storage at a facility not previously 25358
authorized to store hazardous waste, treatment at a facility not 25359
previously authorized to treat hazardous waste, or disposal at a 25360
facility not previously authorized to dispose of hazardous waste; 25361
or authority to add a category of hazardous waste management unit 25362
not previously authorized at the facility by the facility's 25363
permit. Notwithstanding any provision of division (I) of this 25364
section to the contrary, a request for authority to add or to 25365
modify an activity or a hazardous waste management unit for the 25366
purposes of performing a corrective action shall be classified and 25367
approved or disapproved by the director under division (I)(5) of 25368
this section. 25369

(d) Authority to treat, store, or dispose of waste types 25370
listed or characterized as reactive or explosive, in rules adopted 25371
under section 3734.12 of the Revised Code, or any acute hazardous 25372
waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not 25373
previously authorized to treat, store, or dispose of those types 25374
of wastes by the facility's permit unless the requested authority 25375
is limited to wastes that no longer exhibit characteristics 25376
meeting the criteria for listing or characterization as reactive 25377
or explosive wastes, or for listing as acute hazardous waste, but 25378

still are required to carry those waste codes as established in 25379
rules adopted under section 3734.12 of the Revised Code because of 25380
the requirements established in 40 C.F.R. 261(a) and (e), as 25381
amended, that is, the "mixture," "derived-from," or "contained-in" 25382
regulations. 25383

(4) A written request for a modification from the permittee 25384
shall be submitted to the director and shall contain such 25385
information as is necessary to support the request. ~~The director~~ 25386
~~shall transmit to the board requests for Class 3 modifications~~ 25387
~~described in divisions (I)(3)(a) to (d) of this section within two~~ 25388
~~hundred forty days after receiving the requests.~~ Requests for 25389
modifications shall be acted upon by the director ~~or the board, as~~ 25390
~~appropriate,~~ in accordance with this section and rules adopted 25391
under it. 25392

(5) Class 1 modification applications that require prior 25393
approval of the director, as determined in accordance with rules 25394
adopted under division (K) of this section, Class 2 modification 25395
applications, and Class 3 modification applications that are not 25396
described in divisions (I)(3)(a) to (d) of this section shall be 25397
approved or disapproved by the director in accordance with rules 25398
adopted under division (K) of this section. The board of county 25399
commissioners of the county, the board of township trustees of the 25400
township, and the city manager or mayor of the municipal 25401
corporation in which a hazardous waste facility is located shall 25402
receive notification of any application for a modification for 25403
that facility and shall be considered as interested persons with 25404
respect to the director's consideration of the application. 25405

For those modification applications for a transfer of a 25406
permit to a new owner or operator of a facility, the director also 25407
shall determine that, if the transferee owner or operator has been 25408
involved in any prior activity involving the transportation, 25409
treatment, storage, or disposal of hazardous waste, the transferee 25410

owner or operator has a history of compliance with this chapter 25411
and Chapters 3704. and 6111. of the Revised Code and all rules and 25412
standards adopted under them, the "Resource Conservation and 25413
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 25414
amended, and all regulations adopted under it, and similar laws 25415
and rules of another state if the transferee owner or operator 25416
owns or operates a facility in that state, that demonstrates 25417
sufficient reliability, expertise, and competency to operate a 25418
hazardous waste facility under this chapter and Chapters 3704. and 25419
6111. of the Revised Code, all rules and standards adopted under 25420
them, and terms and conditions of a hazardous waste facility 25421
installation and operation permit, given the potential for harm to 25422
the public health and safety and the environment that could result 25423
from the irresponsible operation of the facility. A permit may be 25424
transferred to a new owner or operator only pursuant to a Class 3 25425
permit modification. 25426

As used in division (I)(5) of this section: 25427

(a) "Owner" means the person who owns a majority or 25428
controlling interest in a facility. 25429

(b) "Operator" means the person who is responsible for the 25430
overall operation of a facility. 25431

The director shall approve or disapprove an application for a 25432
Class 1 modification that requires the director's approval within 25433
sixty days after receiving the request for modification. The 25434
director shall approve or disapprove an application for a Class 2 25435
modification within three hundred days after receiving the request 25436
for modification. The director shall approve or disapprove an 25437
application for a Class 3 modification ~~that is not described in~~ 25438
~~divisions (I)(3)(a) to (d) of this section~~ within three hundred 25439
sixty-five days after receiving the request for modification. 25440

(6) The approval or disapproval by the director of a Class 1 25441

modification application is not a final action that is appealable 25442
under Chapter 3745. of the Revised Code. The approval or 25443
disapproval by the director of a Class 2 modification or a Class 3 25444
modification ~~that is not described in divisions (I)(3)(a) to (d)~~ 25445
~~of this section~~ is a final action that is appealable under that 25446
chapter. In approving or disapproving a request for a 25447
modification, the director shall consider all comments pertaining 25448
to the request that are received during the public comment period 25449
and the public meetings. The administrative record for appeal of a 25450
final action by the director in approving or disapproving a 25451
request for a modification shall include all comments received 25452
during the public comment period relating to the request for 25453
modification, written materials submitted at the public meetings 25454
relating to the request, and any other documents related to the 25455
director's action. 25456

~~(7) The hazardous waste facility board shall approve or 25457
disapprove an application for a Class 3 modification transmitted 25458
to it under division (I)(4) of this section, or that portion of a 25459
permit renewal application that constitutes a Class 3 modification 25460
application so transmitted, of a hazardous waste facility 25461
installation and operation permit in accordance with division (D) 25462
of this section. No other request for a modification shall be 25463
subject to division (D)(6) of this section. No aspect of a 25464
permitted facility or its operations that is not being modified as 25465
described in division (I)(3)(a), (b), (c), or (d) of this section 25466
shall be subject to review by the board under division (D) of this 25467
section. 25468~~

~~(8)~~ Notwithstanding any other provision of law to the 25469
contrary, a change or alteration to a hazardous waste facility 25470
described in division (E)(3)(a) or (b) of section 3734.02 of the 25471
Revised Code, or its operations, is a modification for the 25472
purposes of this section. An application for a modification at 25473

such a facility shall be submitted, classified, and approved or 25474
disapproved in accordance with divisions (I)(1) to ~~(7)~~(6) of this 25475
section in the same manner as a modification to a hazardous waste 25476
facility installation and operation permit. 25477

(J)(1) Except as provided in division (J)(2) of this section, 25478
an owner or operator of a hazardous waste facility that is 25479
operating in accordance with a permit by rule under rules adopted 25480
by the director under division (E)(3)(b) of section 3734.02 of the 25481
Revised Code shall submit either a hazardous waste facility 25482
installation and operation permit application for the facility or 25483
a modification application, whichever is required under division 25484
(J)(1)(a) or (b) of this section, within one hundred eighty days 25485
after the director has requested the application or upon a later 25486
date if the owner or operator demonstrates to the director good 25487
cause for the late submittal. 25488

(a) If the owner or operator does not have a hazardous waste 25489
facility installation and operation permit for any hazardous waste 25490
treatment, storage, or disposal activities at the facility, the 25491
owner or operator shall submit an application for such a permit to 25492
the director for the activities authorized by the permit by rule. 25493
Notwithstanding any other provision of law to the contrary, the 25494
director shall approve or disapprove the application for the 25495
permit in accordance with the procedures governing the approval or 25496
disapproval of permit renewals under division (H) of this section. 25497

(b) If the owner or operator has a hazardous waste facility 25498
installation and operation permit for hazardous waste treatment, 25499
storage, or disposal activities at the facility other than those 25500
authorized by the permit by rule, the owner or operator shall 25501
submit to the director a request for modification in accordance 25502
with division (I) of this section. Notwithstanding any other 25503
provision of law to the contrary, the director shall approve or 25504
disapprove the modification application in accordance with ~~rules~~ 25505

~~adopted under~~ division ~~(K)~~(I)(5) of this section. 25506

(2) The owner or operator of a boiler or industrial furnace 25507
that is conducting thermal treatment activities in accordance with 25508
a permit by rule under rules adopted by the director under 25509
division (E)(3)(b) of section 3734.02 of the Revised Code shall 25510
submit a hazardous waste facility installation and operation 25511
permit application if the owner or operator does not have such a 25512
permit for any hazardous waste treatment, storage, or disposal 25513
activities at the facility or, if the owner or operator has such a 25514
permit for hazardous waste treatment, storage, or disposal 25515
activities at the facility other than thermal treatment activities 25516
authorized by the permit by rule, a modification application to 25517
add those activities authorized by the permit by rule, whichever 25518
is applicable, within one hundred eighty days after the director 25519
has requested the submission of the application or upon a later 25520
date if the owner or operator demonstrates to the director good 25521
cause for the late submittal. The application shall be accompanied 25522
by information necessary to support the request. The ~~hazardous~~ 25523
~~waste facility board~~ director shall approve or disapprove ~~the an~~ 25524
application for a hazardous waste facility installation and 25525
operation permit in accordance with division (D) of this section 25526
and approve or disapprove an application for a modification in 25527
accordance with division (I)(3) of this section, except that the 25528
~~board~~ director shall not disapprove an application for the thermal 25529
treatment activities on the basis of the criteria set forth in 25530
division (D)~~(6)~~(2)(g) or (h) of this section. 25531

(3) As used in division (J) of this section: 25532

(a) "Modification application" means a request for a 25533
modification submitted in accordance with division (I) of this 25534
section. 25535

(b) "Thermal treatment," "boiler," and "industrial furnace" 25536
have the same meanings as in rules adopted under section 3734.12 25537

of the Revised Code. 25538

(K) The director shall adopt, and may amend, suspend, or 25539
rescind, rules in accordance with Chapter 119. of the Revised Code 25540
in order to implement divisions (H) and (I) of this section. 25541
Except when in actual conflict with this section, rules governing 25542
the classification of and procedures for the modification of 25543
hazardous waste facility installation and operation permits shall 25544
be substantively and procedurally identical to the regulations 25545
governing hazardous waste facility permitting and permit 25546
modifications adopted under the "Resource Conservation and 25547
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 25548
amended. 25549

Sec. 3734.12. The director of environmental protection shall 25550
adopt and may amend, suspend, and rescind rules in accordance with 25551
Chapter 119. of the Revised Code, which shall be consistent with 25552
and equivalent to the regulations adopted under the "Resource 25553
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 25554
6921, as amended, except for rules adopted under divisions (D) and 25555
(F) of this section governing solid waste facilities and except as 25556
otherwise provided in this chapter, doing all of the following: 25557

(A) Adopting the criteria and procedures established under 25558
the "Resource Conservation and Recovery Act of 1976," 90 Stat. 25559
2806, 42 U.S.C.A. 6921, as amended, for identifying hazardous 25560
waste. The director shall prepare, revise when appropriate, and 25561
publish a list of substances or categories of substances 25562
identified to be hazardous using the criteria specified in 40 25563
C.F.R. 261, as amended, which shall be composed of at least those 25564
substances identified as hazardous pursuant to section 3001(B) of 25565
that act. The director shall not list any waste that the 25566
administrator of the United States environmental protection agency 25567
delisted or excluded by an amendment to the federal regulations, 25568

any waste that the administrator declined to list by publishing a 25569
denial of a rulemaking petition or by withdrawal of a proposed 25570
listing in the United States federal register after May 18, 1980, 25571
or any waste oil or polychlorinated biphenyl not listed by the 25572
administrator. 25573

(B) Establishing standards for generators of hazardous waste 25574
necessary to protect human health or safety or the environment in 25575
accordance with this chapter, including, but not limited to, 25576
requirements respecting all of the following: 25577

(1) Record-keeping practices that accurately identify the 25578
quantities of hazardous waste generated, the constituents that are 25579
significant in quantity or in potential harm to human health or 25580
safety or the environment, and the disposition of the waste; 25581

(2) Labeling of containers used for storage, transportation, 25582
or disposal of hazardous waste to identify the waste accurately; 25583

(3) Use of appropriate containers for hazardous waste; 25584

(4) Providing information on the general chemical composition 25585
of hazardous waste to persons transporting, treating, storing, or 25586
disposing of the waste; 25587

(5) A manifest system requiring a manifest consistent with 25588
that prescribed under the "Resource Conservation and Recovery Act 25589
of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended, requiring a 25590
manifest for any hazardous waste transported off the premises 25591
where generated and assuring that all hazardous waste that is 25592
transported off the premises where generated is designated for 25593
treatment, storage, or disposal in facilities for which a permit 25594
has been issued or in the other facilities specified in division 25595
(F) of section 3734.02 of the Revised Code; 25596

(6) Submission of such reports to the director as the 25597
director determines necessary; 25598

(7) Establishment of quality control and testing procedures	25599
that ensure compliance with the rules adopted under this section;	25600
(8) Obtainment of a United States environmental protection	25601
agency identification number.	25602
(C) Establishing standards for transporters of hazardous	25603
waste necessary to protect human health or safety or the	25604
environment in accordance with this chapter, including, but not	25605
limited to, requirements respecting all of the following:	25606
(1) Record-keeping concerning hazardous waste transported,	25607
including source and delivery points;	25608
(2) Submission of such reports to the director as the	25609
director determines necessary;	25610
(3) Transportation of only properly labeled waste;	25611
(4) Compliance with the manifest system required by division	25612
(B) of this section;	25613
(5) Transportation of hazardous waste only to the treatment,	25614
storage, or disposal facility that the shipper designates on the	25615
manifest to be a facility holding a permit or another facility	25616
specified in division (F) of section 3734.02 of the Revised Code;	25617
(6) Contingency plans to minimize unanticipated damage from	25618
transportation of hazardous waste;	25619
(7) Financial responsibility, including, but not limited to,	25620
provisions requiring a financial mechanism to cover the costs of	25621
spill cleanup and liability for sudden accidental occurrences that	25622
result in damage to persons, property, or the environment;	25623
(8) Obtainment of a United States environmental protection	25624
agency identification number.	25625
In the case of any hazardous waste that is subject to the	25626
"Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49	25627

U.S.C.A. 1801, as amended, the rules shall be consistent with that 25628
act and regulations adopted under it. 25629

(D) Establishing performance standards for owners and 25630
operators of hazardous waste facilities and owners and operators 25631
of solid waste facilities, necessary to protect human health or 25632
safety or the environment in accordance with this chapter, 25633
including, but not limited to, requirements respecting all of the 25634
following: 25635

(1) Maintaining records of all hazardous waste that is 25636
treated, stored, or disposed of and of the manner in which the 25637
waste was treated, stored, or disposed of or records of all solid 25638
wastes transferred or disposed of and of the manner in which the 25639
wastes were disposed of; 25640

(2) Submission of such reports to the director as the 25641
director determines necessary; 25642

(3) Reporting, monitoring, inspection, and, except with 25643
respect to solid waste facilities, compliance with the manifest 25644
system referred to in division (B) of this section; 25645

(4) Treatment, storage, or disposal of all hazardous waste 25646
received by methods, techniques, and practices approved by the 25647
director and disposal or transfer of all solid wastes received by 25648
methods, techniques, and practices approved by the director; 25649

(5) Location, design, and construction of hazardous waste 25650
facilities and location, design, and construction of solid waste 25651
facilities; 25652

(6) Contingency plans for effective action to minimize 25653
unanticipated damage from treatment, storage, or disposal of 25654
hazardous waste and the disposal or transfer of solid wastes; 25655

(7) Ownership, continuity of operation, training for 25656
personnel, and financial responsibility, including the filing of 25657

closure and post-closure financial assurance, if applicable. No 25658
private entity shall be precluded by reason of these requirements 25659
from the ownership or operation of facilities providing hazardous 25660
waste treatment, storage, or disposal services if the entity can 25661
provide assurances of financial responsibility and continuity of 25662
operation consistent with the degree and duration of risks 25663
associated with the treatment, storage, or disposal of specified 25664
hazardous waste. 25665

(8) Closure and post-closure care of a hazardous waste 25666
facility where hazardous waste will no longer be treated, stored, 25667
or disposed of and of a solid waste facility where solid wastes 25668
will no longer be disposed of or transferred; 25669

(9) Establishment of quality control and testing procedures 25670
that ensure compliance with the rules adopted under this section; 25671

(10) Obtainment of a United States environmental protection 25672
agency identification number for each hazardous waste treatment, 25673
storage, or disposal facility; 25674

(11) Trial burns and land treatment demonstrations. 25675

The rules adopted under divisions (D) and (F) of this section 25676
pertaining to solid waste facilities do not apply to scrap tire 25677
collection, storage, monocell, monofill, and recovery facilities. 25678
Those facilities are subject to and governed by rules adopted 25679
under sections 3734.70 to 3734.73 of the Revised Code, as 25680
applicable. 25681

(E) Governing the issuance, modification, revocation, 25682
suspension, withdrawal, and denial of installation and operation 25683
permits, draft permits, and transportation certificates of 25684
registration; 25685

(F) Specifying information required to be included in 25686
applications for hazardous waste facility installation and 25687
operation permits and solid waste permits, including, but not 25688

limited to, detail plans, specifications, and information	25689
respecting all of the following:	25690
(1) The composition, quantities, and concentrations of	25691
hazardous waste and solid wastes to be stored, treated,	25692
transported, or disposed of and such other information as the	25693
director may require regarding the method of operation;	25694
(2) The facility to which the waste will be transported or	25695
where it will be stored, treated, or disposed of;	25696
(3) The closure and post-closure care of a facility where	25697
hazardous waste will no longer be treated, stored, or disposed of	25698
and of a solid waste facility where solid wastes will no longer be	25699
disposed of or transferred.	25700
(G) Establishing procedures ensuring that all information	25701
entitled to protection as trade secrets disclosed to the director	25702
or the director's authorized representative is not disclosed	25703
without the consent of the owner, except that such information may	25704
be disclosed, upon request, to authorized representatives of the	25705
United States environmental protection agency, or as required by	25706
law. As used in this section, "trade secrets" means any formula,	25707
plan, pattern, process, tool, mechanism, compound, procedure,	25708
production date, or compilation of information that is not	25709
patented, that is known only to certain individuals within a	25710
commercial concern who are using it to fabricate, produce, or	25711
compound an article, trade, or service having commercial value,	25712
and that gives its user an opportunity to obtain a business	25713
advantage over competitors who do not know or use it.	25714
(H) Prohibiting the disposal of specified hazardous wastes in	25715
this state if the director has determined both of the following:	25716
(1) The potential impacts on human health or safety or the	25717
environment are such that disposal of those wastes should not be	25718
allowed+.	25719

(2) A technically feasible and environmentally sound 25720
alternative is reasonably available, either within or outside this 25721
state, for processing, recycling, fixation of, neutralization of, 25722
or other treatment of those wastes. Such reasonable availability 25723
shall not be determined without a consideration of the costs to 25724
the generator of implementing the alternatives. 25725

The director shall adopt, and may amend, suspend, or rescind, 25726
rules to specify hazardous wastes that shall not be disposed of in 25727
accordance with this division. Nothing in this division, either 25728
prior to or after adoption of those rules, shall preclude the 25729
director ~~or the hazardous waste facility board created in section~~ 25730
~~3734.05 of the Revised Code~~ from prohibiting the disposal of 25731
specified hazardous wastes at particular facilities under the 25732
terms or conditions of a permit or ~~preclude the director from~~ 25733
~~prohibiting that disposal~~ by order. 25734

(I)(1)(a) Governing the following that may be more stringent 25735
than the regulations adopted under the "Resource Conservation and 25736
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 25737
amended, when the director determines that such more stringent 25738
rules are reasonable in order to protect human health or safety or 25739
the environment: 25740

(i) Specific wastes that the director determines, because of 25741
their physical, chemical, or biological characteristics, are so 25742
extremely hazardous that the storage, treatment, or disposal of 25743
the wastes in compliance with those regulations would present an 25744
imminent danger to human health or safety or the environment; 25745

(ii) The use of only properly designed, operated, and 25746
approved transfer facilities; 25747

(iii) Preventing illegitimate activities relating to the 25748
reuse, recycling, or reclaiming of hazardous waste, including 25749
record-keeping, reporting, and manifest requirements. 25750

(b) In adopting such more stringent rules, the director shall 25751
give consideration to and base the rules on evidence concerning 25752
factors including, but not limited to, the following insofar as 25753
pertinent: 25754

(i) Geography of the state; 25755

(ii) Geology of the state; 25756

(iii) Hydrogeology of the state; 25757

(iv) Climate of the state; 25758

(v) Engineering and technical feasibility; 25759

(vi) Availability of alternative technologies or methods of 25760
storage, treatment, or disposal. 25761

(2) The director may require from generators and transporters 25762
of hazardous waste and from owners or operators of treatment, 25763
storage, or disposal facilities, the submission of reports in 25764
addition to those required under regulations adopted under the 25765
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 25766
42 U.S.C.A. 6921, as amended, to the extent that such reports 25767
contain information that the generator, transporter, or facility 25768
owner or operator is required to obtain in order to comply with 25769
the regulations adopted by the administrator of the United States 25770
environmental protection agency under the "Resource Conservation 25771
and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 25772
amended, or to the extent that such reports are required by the 25773
director to meet the requirements of division (B)(7), (D)(9), or 25774
(H) of this section or section 3734.121 of the Revised Code. 25775

(J) Governing the storage, treatment, or disposal of 25776
hazardous waste in, and the permitting, design, construction, 25777
operation, monitoring, inspection, closure, and post-closure care 25778
of, hazardous waste underground injection wells, surface 25779
impoundments, waste piles other than those composed of materials 25780

removed from the ground as part of coal or mineral extraction or 25781
cleaning processes, land treatment facilities, thermal treatment 25782
facilities, and landfills that may be more stringent than the 25783
regulations adopted under the "Resource Conservation and Recovery 25784
Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, 25785
whenever the director reasonably determines that federal 25786
regulations will not adequately protect the public health or 25787
safety or the environment of this state with respect to the 25788
subject matter of the more stringent rules. Such more stringent 25789
rules shall be developed to achieve a degree of protection, as 25790
determined by the director, consistent with the degree of hazard 25791
potentially posed by the various wastes or categories of wastes to 25792
be treated, stored, or disposed of and the types of facilities at 25793
which they are to be treated, stored, or disposed of. In adopting 25794
such more stringent rules, the director shall give consideration 25795
to and base the rules on evidence concerning factors including, 25796
but not limited to, the following insofar as pertinent: 25797

- (1) Geography of the state; 25798
- (2) Geology of the state; 25799
- (3) Hydrogeology of the state; 25800
- (4) Climate of the state; 25801
- (5) Engineering and technical feasibility; 25802
- (6) Availability of alternative technologies or methods of 25803
storage, treatment, or disposal. 25804

(K) Establishing performance standards and other requirements 25805
necessary to protect public health and the environment from 25806
hazards associated with used oil, including, without limitation, 25807
standards and requirements respecting all of the following: 25808

- (1) Material that is subject to regulation as used oil; 25809
- (2) Generation of used oil; 25810

- (3) Used oil collection centers and aggregation points; 25811
- (4) Transportation of used oil; 25812
- (5) Processing and re-refining of used oil; 25813
- (6) Burning of used oil; 25814
- (7) Marketing of used oil; 25815
- (8) Disposal of used oil; 25816
- (9) Use of used oil as a dust suppressant. 25817

Sec. 3734.123. (A) As used in this section and section 25818
3734.124 of the Revised Code, "commercial hazardous waste 25819
incinerator" means an enclosed device that treats hazardous waste 25820
by means of controlled flame combustion and that accepts for 25821
treatment hazardous waste that is generated off the premises on 25822
which the device is located by any person other than the one who 25823
owns or operates the device or one who controls, is controlled by, 25824
or is under common control with the person who owns or operates 25825
the device. "Commercial hazardous waste incinerator" does not 25826
include any "boiler" or "industrial furnace" as those terms are 25827
defined in rules adopted under section 3734.12 of the Revised 25828
Code. 25829

(B) Not sooner than three years after April 15, 1993, and 25830
triennially thereafter, the director of environmental protection 25831
shall prepare, publish, and issue as a final action an assessment 25832
of commercial hazardous waste incinerator capacity in this state. 25833
However, after the issuance as a final action of a determination 25834
under division (A) of section 3734.124 of the Revised Code that 25835
terminates the restrictions established in division (C) of this 25836
section, the director shall cease preparing, publishing, and 25837
issuing the periodic assessments required under this division. The 25838
assessment shall determine the amount of commercial hazardous 25839
waste incinerator capacity needed to manage the hazardous waste 25840

expected to be generated in this state and imported into this 25841
state for incineration at commercial hazardous waste incinerators 25842
during the next succeeding twenty calendar years. The assessment 25843
shall include at least all of the following: 25844

(1) A determination of the aggregate treatment capacity 25845
authorized at commercial hazardous waste incinerators located in 25846
this state; 25847

(2) A determination of the quantity of hazardous waste 25848
generated in this state that is being treated at commercial 25849
hazardous waste incinerators located in this state and projections 25850
of the quantity of hazardous waste generated in this state that 25851
will be treated at those facilities; 25852

(3) A determination of the quantity of hazardous waste 25853
generated outside this state that is being treated at commercial 25854
hazardous waste incinerators located in this state and projections 25855
of the quantity of hazardous waste generated outside this state 25856
that will be treated at those facilities; 25857

(4) A determination of the quantity of hazardous waste 25858
generated in this state that is being treated at commercial 25859
hazardous waste incinerators located outside this state, and 25860
projections of the quantity of hazardous waste generated in this 25861
state that will be treated at those facilities; 25862

(5) The amount of commercial hazardous waste incinerator 25863
capacity that the director reasonably anticipates will be needed 25864
during the first three years of the planning period to treat 25865
hazardous waste generated from the remediation of sites in this 25866
state that are on the national priority list required under the 25867
"Comprehensive Environmental Response, Compensation, and Liability 25868
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended; as a 25869
result of corrective actions implemented under the "Resource 25870
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 25871

6921, as amended; and as a result of clean-up activities conducted 25872
at sites listed on the master sites list prepared by the 25873
environmental protection agency; 25874

(6) Based upon available data, provided that the data are 25875
reliable and are compatible with the data base of the 25876
environmental protection agency, an identification of any 25877
hazardous waste first listed as a hazardous waste in regulations 25878
adopted under the "Resource Conservation and Recovery Act of 25879
1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, on or after 25880
April 15, 1993, and of any hazardous waste that has been proposed 25881
for such listing by publication of a notice in the federal 25882
register on or before December 1 of the year immediately preceding 25883
the triennial assessment; 25884

(7) An analysis of other factors that may result in capacity 25885
changes over the period addressed by the assessment. 25886

(C) Except as otherwise provided in section 3734.124 of the 25887
Revised Code, none of the following shall occur on or after April 25888
15, 1993: 25889

(1) The director shall not do any of the following: 25890

~~(a) Pursuant to division (D)(3) or (I)(4) of section 3734.05 25891
of the Revised Code, as applicable, transmit to the hazardous 25892
waste facility board created in that section any application for a 25893
Issue any hazardous waste facility installation and operation 25894
permit under division (D) of section 3745.05 of the Revised Code 25895
for the establishment of a new commercial hazardous waste 25896
incinerator, or any request for a modification, as described in 25897
divisions (I)(3)(a) to (d) of section 3734.05 of the Revised Code, 25898
of an existing commercial hazardous waste incinerator to increase 25899
either the treatment capacity of the incinerator or the quantity 25900
of hazardous waste authorized to be treated by it, for which the 25901
staff of the environmental protection agency has made a 25902~~

~~preliminary determination as to whether the application or request~~ 25903
~~appears to comply with the rules and standards set forth under~~ 25904
~~divisions (D), (I), and (J) of section 3734.12 of the Revised~~ 25905
~~Code;~~ 25906

~~(b)~~ Issue issue any modified hazardous waste facility 25907
installation and operation permit under division (I)~~(5)~~ of that 25908
section ~~3734.05 of the Revised Code~~ that would authorize an 25909
increase in either the treatment capacity of a commercial 25910
hazardous waste incinerator or the quantity of hazardous waste 25911
authorized to be treated by it; 25912

~~(e)~~(b) Issue any permit pursuant to rules adopted under 25913
division (F) of section 3704.03 of the Revised Code, division (J) 25914
of section 6111.03 of the Revised Code, or the solid waste 25915
provisions of this chapter and rules adopted under those 25916
provisions, that is necessary for the establishment, modification, 25917
or operation of any appurtenant facility or equipment that is 25918
necessary for the operation of a new commercial hazardous waste 25919
incinerator, or the modification of such an existing incinerator 25920
to increase either the treatment capacity of the incinerator or 25921
the quantity of hazardous waste that is authorized to be treated 25922
by it. Upon determining that an application for any permit 25923
pertains to the establishment, modification, or operation of any 25924
appurtenant facility or equipment, the director shall cease 25925
reviewing the application and return the application and 25926
accompanying materials to the applicant along with a written 25927
notice that division (C)(1)~~(e)~~(b) of this section precludes the 25928
director from reviewing and acting upon the application. 25929

~~(d)~~(c) Issue any exemption order under division (G) of 25930
section 3734.02 of the Revised Code exempting the establishment of 25931
a new commercial hazardous waste incinerator; the modification of 25932
an existing facility to increase either the treatment capacity of 25933
the incinerator or the quantity of hazardous waste that is 25934

authorized to be treated by it; or the establishment, 25935
modification, or operation of any facility or equipment 25936
appurtenant to a new or modified commercial hazardous waste 25937
incinerator, from divisions (C)(1)(a) ~~or (b) or (c)~~ or (C)(2) ~~or~~ 25938
~~(3)~~ of this section. 25939

(2) ~~The staff of the environmental protection agency shall~~ 25940
~~not take any action under division (D)(3) of section 3734.05 of~~ 25941
~~the Revised Code to review, or to make a preliminary determination~~ 25942
~~of compliance with the rules and standards set forth in divisions~~ 25943
~~(D), (I), and (J) of section 3734.12 of the Revised Code~~ 25944
~~regarding, any~~ If the director determines that an application for 25945
a hazardous waste facility installation and operation permit 25946
submitted under division (D)~~(3)~~ of section 3734.05 of the Revised 25947
Code ~~that~~ pertains to the establishment of a new commercial 25948
hazardous waste incinerator, or ~~any~~ a request for a modification 25949
of an existing incinerator submitted under division (I)~~(4)~~ of that 25950
section ~~to modify an existing incinerator~~ pertains to an increase 25951
of either the treatment capacity of the incinerator or the 25952
quantity of hazardous waste that is authorized to be treated by 25953
it. ~~Upon determining that an application or request submitted~~ 25954
~~under those divisions pertains to the establishment of a new~~ 25955
~~commercial hazardous waste incinerator or the modification of an~~ 25956
~~existing incinerator, the staff of the agency~~ director shall cease 25957
reviewing the application or request and shall return it and the 25958
accompanying materials to the applicant along with a written 25959
notice that division (C)(2) of this section precludes the ~~staff~~ 25960
~~from reviewing or making any preliminary determination of~~ 25961
~~compliance regarding~~ review of the application or request. 25962

~~(3) The hazardous waste facility board created in section~~ 25963
~~3734.05 of the Revised Code shall not do either of the following:~~ 25964

~~(a) Approve any application for a hazardous waste facility~~ 25965
~~installation and operation permit, or issue any permit, under~~ 25966

~~divisions (D) and (F) of section 3734.05 of the Revised Code that 25967
authorizes the establishment and operation of a new commercial 25968
hazardous waste incinerator; 25969~~

~~(b) Approve any request to modify an existing commercial 25970
hazardous waste incinerator under divisions (D) and (I)(7) of 25971
section 3734.05 of the Revised Code that authorizes an increase in 25972
either the treatment capacity of the incinerator or the quantity 25973
of hazardous waste authorized to be treated by it. 25974~~

Sec. 3734.124. (A) Promptly after issuing a periodic 25975
assessment under division (B) of section 3734.123 of the Revised 25976
Code, the director of environmental protection shall make a 25977
determination as to whether it is necessary or appropriate to 25978
continue the restrictions established in division (C) of section 25979
3734.123 of the Revised Code during the period of time between the 25980
issuance of the assessment and the issuance of the next succeeding 25981
periodic assessment or as to whether it is necessary or 25982
appropriate to terminate the restrictions. The director shall 25983
consider all of the following when making a determination under 25984
this division: 25985

(1) The findings of the assessment; 25986

(2) The findings of an evaluation conducted by the director, 25987
in consultation with the chairperson of the state emergency 25988
response commission created in section 3750.02 of the Revised 25989
Code, regarding the capability of this state to respond to the 25990
types and frequencies of releases of hazardous waste that are 25991
likely to occur at commercial hazardous waste incinerators; 25992

(3) The effect that a new commercial hazardous waste 25993
incinerator may have on ambient air quality in this state; 25994

(4) The findings of a review of relevant information 25995
regarding the impacts of commercial hazardous waste incinerators 25996

on human health and the environment, such as health studies and 25997
risk assessments; 25998

(5) The findings of a review of the operational records of 25999
commercial hazardous waste incinerators operating in this state; 26000

(6) The findings of any review of relevant information 26001
concerning the following: 26002

(a) The cost of and access to commercial hazardous waste 26003
incinerator capacity; 26004

(b) The length of time and the regulatory review process 26005
necessary to fully permit a commercial hazardous waste 26006
incinerator; 26007

(c) Access to long-term capital investment to fund the 26008
building of a commercial hazardous waste incinerator in this 26009
state; 26010

(d) Efforts by generators of hazardous waste accepted by 26011
commercial hazardous waste incinerators to reduce the amount of 26012
hazardous waste that they generate. 26013

(7) Regulatory and legislative concerns that may include, 26014
without limitation, the provisions of paragraphs (a) and (b) of 40 26015
C.F.R. 271.4, as they existed on April 15, 1993. 26016

If, after considering all of the information and concerns 26017
that the director is required to consider under divisions (A)(1) 26018
to (7) of this section, the director determines that it is 26019
necessary or appropriate to terminate the restrictions established 26020
in division (C) of section 3734.123 of the Revised Code in order 26021
to protect human health or safety or the environment, the director 26022
shall issue as a final action a written determination to that 26023
effect. If the director determines that it is necessary or 26024
appropriate for those purposes to continue the restrictions until 26025
the issuance of the next succeeding periodic assessment under 26026

division (B) of section 3734.123 of the Revised Code, the director 26027
shall issue as a final action a written determination to that 26028
effect. After the issuance as a final action of a determination 26029
under this division that it is necessary or appropriate to 26030
terminate the restrictions established in division (C) of section 26031
3734.123 of the Revised Code, the director shall cease making the 26032
periodic determinations required under this division. 26033

(B) Beginning three years after April 15, 1993, but only on 26034
and after the date of issuance as final actions of an assessment 26035
under division (B) of section 3734.123 of the Revised Code and a 26036
determination under division (A) of this section that it is 26037
necessary or appropriate to terminate the restrictions established 26038
in division (C) of section 3734.123 of the Revised Code, ~~any of~~ 26039
~~the following may occur:~~ 26040

~~(1) The the director may do any of the following:~~ 26041

~~(a) Pursuant to division (D)(3) or (I)(4) of section 3734.05 26042
of the Revised Code, as applicable, transmit to the hazardous 26043
waste facility board created in that section an application for a 26044
hazardous waste facility installation and operation permit that 26045
pertains to the establishment of a new commercial hazardous waste 26046
incinerator, or a request for a modification, as described in 26047
divisions (I)(3)(a) to (d) of section 3734.05 of the Revised Code, 26048
of a commercial hazardous waste incinerator to increase either the 26049
treatment capacity of the incinerator or the quantity of hazardous 26050
waste authorized to be treated by it, for which the staff of the 26051
environmental protection agency has made a preliminary 26052
determination as to whether the application or request appears to 26053
comply with the rules and standards set forth under divisions (D), 26054
(I), and (K) of section 3734.05 of the Revised Code;~~ 26055

~~(b) To the extent otherwise authorized in division (I)(5) of 26056
section 3734.05 of the Revised Code, issue a modified hazardous 26057
waste facility installation and operation permit under that 26058~~

~~division that authorizes an increase in either the treatment capacity of a commercial hazardous waste incinerator or the quantity of hazardous waste authorized to be treated by it;~~ 26059
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26061

~~(e)(1)~~ To the extent otherwise authorized thereunder, issue any permit pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code, division (J) of section 6111.03 of the Revised Code, or the solid waste provisions of this chapter and rules adopted under those provisions, that is necessary for the establishment, modification, or operation of any appurtenant facility or equipment that is necessary for the operation of a new commercial hazardous waste incinerator, or for the modification of an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to be treated by it; 26062
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~~(d)(2)~~ To the extent otherwise authorized in division (G) of section 3734.02 of the Revised Code, issue an order exempting the establishment of a new commercial hazardous waste incinerator; the modification of an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste that is authorized to be treated by it; or the establishment, modification, or operation of any facility or equipment appurtenant to a new or modified commercial hazardous waste incinerator, from division (C)(1)(a), or (b), ~~or (c)~~ or (C)(2) ~~or (3)~~ of section 3734.123 of the Revised Code; 26073
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~~(2) The staff of the environmental protection agency may do both of the following:~~ 26083
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~~(a) Pursuant to division (D)(3) or (I)(4) of section 3734.05 of the Revised Code, review an application for a hazardous waste facility installation and operation permit to establish a new commercial hazardous waste incinerator or a request to modify an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to~~ 26085
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be treated by it; 26091

~~(b) Pursuant to division (D)(3) or (I)(4) of section 3734.05 of the Revised Code, make a preliminary determination as to whether an application for a hazardous waste facility permit to install and operate a new commercial hazardous waste incinerator or a request to modify an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to be treated by it appears to comply with the rules and performance standards set forth under divisions (D), (I), and (J) of section 3734.12 of the Revised Code.~~ 26092
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~~(3) The hazardous waste facility board may do both of the following:~~ 26101
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~~(a) Approve or disapprove an application for a hazardous waste facility installation and operation permit, and issue a permit, under ~~divisions~~ division (D) and (F) of section 3734.05 of the Revised Code for a new commercial hazardous waste incinerator;~~ 26103
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26106

~~(b) Under divisions (D) and (I)(7) of that section, approve~~ 26107
(4) Approve or disapprove under division (I) of section 3734.05 of the Revised Code a request to modify the permit of an existing 26108
commercial hazardous waste incinerator to increase either the 26109
treatment capacity of the incinerator or the quantity of hazardous 26110
waste authorized to be treated by it. 26111
26112

Sec. 3734.18. (A) There are hereby levied fees on the 26113
disposal of hazardous waste to be collected according to the 26114
following schedule at each disposal facility to which ~~the~~ 26115
~~hazardous waste facility board has issued~~ a hazardous waste 26116
facility installation and operation permit or ~~the director of~~ 26117
~~environmental protection has issued a renewal of a permit pursuant~~ 26118
~~to section 3734.05 of the Revised Code~~ has been issued under this 26119
chapter: 26120

(1) For disposal facilities that are off-site facilities as 26121
defined in division (E) of section 3734.02 of the Revised Code, 26122
fees shall be levied at the rate of four dollars and fifty cents 26123
per ton for hazardous waste disposed of by deep well injection and 26124
nine dollars per ton for hazardous waste disposed of by land 26125
application or landfilling. The owner or operator of the facility, 26126
as a trustee for the state, shall collect the fees and forward 26127
them to the director in accordance with rules adopted under this 26128
section. 26129

(2) For disposal facilities that are on-site or satellite 26130
facilities, as defined in division (E) of section 3734.02 of the 26131
Revised Code, fees shall be levied at the rate of two dollars per 26132
ton for hazardous waste disposed of by deep well injection and 26133
four dollars per ton for hazardous waste disposed of by land 26134
application or landfilling. The maximum annual disposal fee for an 26135
on-site disposal facility that disposes of one hundred thousand 26136
tons or less of hazardous waste in a year is twenty-five thousand 26137
dollars. The maximum annual disposal fee for an on-site facility 26138
that disposes of more than one hundred thousand tons of hazardous 26139
waste in a year by land application or landfilling is fifty 26140
thousand dollars, and the maximum annual fee for an on-site 26141
facility that disposes of more than one hundred thousand tons of 26142
hazardous waste in a year by deep well injection is one hundred 26143
thousand dollars. The maximum annual disposal fee for a satellite 26144
facility that disposes of one hundred thousand tons or less of 26145
hazardous waste in a year is thirty-seven thousand five hundred 26146
dollars, and the maximum annual disposal fee for a satellite 26147
facility that disposes of more than one hundred thousand tons of 26148
hazardous waste in a year is seventy-five thousand dollars, except 26149
that a satellite facility defined under division (E)(3)(b) of 26150
section 3734.02 of the Revised Code that receives hazardous waste 26151
from a single generation site is subject to the same maximum 26152

annual disposal fees as an on-site disposal facility. The owner or 26153
operator shall pay the fee to the director each year upon the 26154
anniversary of the date of issuance of the owner's or operator's 26155
installation and operation permit during the term of that permit 26156
and any renewal permit issued under division (H) of section 26157
3734.05 of the Revised Code. If payment is late, the owner or 26158
operator shall pay an additional ten per cent of the amount of the 26159
fee for each month that it is late. 26160

(B) There are hereby levied fees at the rate of two dollars 26161
per ton on hazardous waste that is treated at treatment facilities 26162
that are not on-site or satellite facilities, as defined in 26163
division (E) of section 3734.02 of the Revised Code, to which ~~the~~ 26164
~~hazardous waste facility board has issued~~ a hazardous waste 26165
facility installation and operation permit or ~~the director~~ renewal 26166
of a permit has been issued ~~a renewal permit under this chapter,~~ 26167
or that are not subject to the hazardous waste facility 26168
installation and operation permit requirements under rules adopted 26169
by the director. 26170

(C) There are hereby levied additional fees on the treatment 26171
and disposal of hazardous waste at the rate of ten per cent of the 26172
applicable fees prescribed in division (A) or (B) of this section 26173
for the purposes of paying the costs of municipal corporations and 26174
counties for conducting reviews of applications for hazardous 26175
waste facility installation and operation permits for proposed new 26176
or modified hazardous waste landfills within their boundaries, 26177
emergency response actions with respect to releases of hazardous 26178
waste from hazardous waste facilities within their boundaries, 26179
monitoring the operation of such hazardous waste facilities, and 26180
local waste management planning programs. The owner or operator of 26181
a facility located within a municipal corporation, as a trustee 26182
for the municipal corporation, shall collect the fees levied by 26183
this division and forward them to the treasurer of the municipal 26184

corporation or such officer as, by virtue of the charter, has the 26185
duties of the treasurer in accordance with rules adopted under 26186
this section. The owner or operator of a facility located in an 26187
unincorporated area, as a trustee of the county in which the 26188
facility is located, shall collect the fees levied by this 26189
division and forward them to the county treasurer of that county 26190
in accordance with rules adopted under this section. The owner or 26191
operator shall pay the fees levied by this division to the 26192
treasurer or such other officer of the municipal corporation or to 26193
the county treasurer each year upon the anniversary of the date of 26194
issuance of the owner's or operator's installation and operation 26195
permit during the term of that permit and any renewal permit 26196
issued under division (H) of section 3734.05 of the Revised Code. 26197
If payment is late, the owner or operator shall pay an additional 26198
ten per cent of the amount of the fee for each month that the 26199
payment is late. 26200

Moneys received by a municipal corporation under this 26201
division shall be paid into a special fund of the municipal 26202
corporation and used exclusively for the purposes of conducting 26203
reviews of applications for hazardous waste facility installation 26204
and operation permits for new or modified hazardous waste 26205
landfills located or proposed within the municipal corporation, 26206
conducting emergency response actions with respect to releases of 26207
hazardous waste from facilities located within the municipal 26208
corporation, monitoring operation of such hazardous waste 26209
facilities, and conducting waste management planning programs 26210
within the municipal corporation through employees of the 26211
municipal corporation or pursuant to contracts entered into with 26212
persons or political subdivisions. Moneys received by a board of 26213
county commissioners under this division shall be paid into a 26214
special fund of the county and used exclusively for those purposes 26215
within the unincorporated area of the county through employees of 26216
the county or pursuant to contracts entered into with persons or 26217

political subdivisions. 26218

(D) As used in this section, "treatment" or "treated" does 26219
not include any method, technique, or process designed to recover 26220
energy or material resources from the waste or to render the waste 26221
amenable for recovery. The fees levied by division (B) of this 26222
section do not apply to hazardous waste that is treated and 26223
disposed of on the same premises or by the same person. 26224

(E) The director, by rules adopted in accordance with 26225
Chapters 119. and 3745. of the Revised Code, shall prescribe any 26226
dates not specified in this section and procedures for collecting 26227
and forwarding the fees prescribed by this section and may 26228
prescribe other requirements that are necessary to carry out this 26229
section. 26230

The director shall deposit the moneys collected under 26231
divisions (A) and (B) of this section into one or more minority 26232
banks, as "minority bank" is defined in division (F)(1) of section 26233
135.04 of the Revised Code, to the credit of the hazardous waste 26234
facility management fund, which is hereby created in the state 26235
treasury, except that the director shall deposit to the credit of 26236
the underground injection control fund created in section 6111.046 26237
of the Revised Code moneys in excess of fifty thousand dollars 26238
that are collected during a fiscal year under division (A)(2) of 26239
this section from the fee levied on the disposal of hazardous 26240
waste by deep well injection at an on-site disposal facility that 26241
disposes of more than one hundred thousand tons of hazardous waste 26242
in a year. 26243

The environmental protection agency ~~and the hazardous waste~~ 26244
~~facility board~~ may use moneys in the hazardous waste facility 26245
management fund for administration of the hazardous waste program 26246
established under this chapter and, in accordance with this 26247
section, may request approval by the controlling board for that 26248
use on an annual basis. In addition, the agency may use and pledge 26249

moneys in that fund for repayment of and for interest on any loans 26250
made by the Ohio water development authority to the agency for the 26251
hazardous waste program established under this chapter without the 26252
necessity of requesting approval by the controlling board, which 26253
use and pledge shall have priority over any other use of the 26254
moneys in the fund. 26255

Until September 28, 1996, the director also may use moneys in 26256
the fund to pay the start-up costs of administering Chapter 3746. 26257
of the Revised Code. 26258

If moneys in the fund that the agency uses in accordance with 26259
this chapter are reimbursed by grants or other moneys from the 26260
United States government, the grants or other moneys shall be 26261
placed in the fund. 26262

Before the agency makes any expenditure from the fund other 26263
than for repayment of and interest on any loan made by the Ohio 26264
water development authority to the agency in accordance with this 26265
section, the controlling board shall approve the expenditure. 26266

Sec. 3734.28. All moneys collected under sections 3734.122, 26267
3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised 26268
Code and natural resource damages collected by the state under the 26269
"Comprehensive Environmental Response, Compensation, and Liability 26270
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall 26271
be paid into the state treasury to the credit of the hazardous 26272
waste clean-up fund, which is hereby created. The environmental 26273
protection agency shall use the moneys in the fund for the 26274
purposes set forth in division (D) of section 3734.122, sections 26275
3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, 26276
and, through ~~June 30, 2003~~ October 15, 2005, divisions (A)(1) and 26277
(2) of section 3745.12 and Chapter 3746. of the Revised Code, 26278
including any related enforcement expenses. In addition, the 26279
agency shall use the moneys in the fund to pay the state's 26280

long-term operation and maintenance costs or matching share for 26281
actions taken under the "Comprehensive Environmental Response, 26282
Compensation, and Liability Act of 1980," as amended. If those 26283
moneys are reimbursed by grants or other moneys from the United 26284
States or any other person, the moneys shall be placed in the fund 26285
and not in the general revenue fund. 26286

Sec. 3734.42. (A)(1) Except as otherwise provided in division 26287
(E)(2) of this section, every applicant for a permit other than a 26288
permit modification or renewal shall file a disclosure statement, 26289
on a form developed by the attorney general, with the director of 26290
environmental protection and the attorney general at the same time 26291
the applicant files an application for a permit other than a 26292
permit modification or renewal with the director. 26293

(2) Any individual required to be listed in the disclosure 26294
statement shall be fingerprinted for identification and 26295
investigation purposes in accordance with procedures established 26296
by the attorney general. An individual required to be 26297
fingerprinted under this section shall not be required to be 26298
fingerprinted more than once under this section. 26299
26300

(3) The attorney general, within one hundred eighty days 26301
after receipt of the disclosure statement from an applicant for a 26302
permit, shall prepare and transmit to the director an 26303
investigative report on the applicant, based in part upon the 26304
disclosure statement, except that this deadline may be extended 26305
for a reasonable period of time, for good cause, by the director 26306
or the attorney general. In preparing this report, the attorney 26307
general may request and receive criminal history information from 26308
the federal bureau of investigation and any other law enforcement 26309
agency or organization. The attorney general may provide such 26310
confidentiality regarding the information received from a law 26311

enforcement agency as may be imposed by that agency as a condition 26312
for providing that information to the attorney general. 26313

(4) The review of the application by the director ~~or the~~ 26314
~~hazardous waste facility board~~ shall include a review of the 26315
disclosure statement and investigative report. 26316

(B) All applicants and permittees shall provide any 26317
assistance or information requested by the director or the 26318
attorney general and shall cooperate in any inquiry or 26319
investigation conducted by the attorney general and any inquiry, 26320
investigation, or hearing conducted by the director ~~or the~~ 26321
~~hazardous waste facility board~~. If, upon issuance of a formal 26322
request to answer any inquiry or produce information, evidence, or 26323
testimony, any applicant or permittee, any officer, director, or 26324
partner of any business concern, or any key employee of the 26325
applicant or permittee refuses to comply, the permit of the 26326
applicant or permittee may be denied or revoked by the director ~~or~~ 26327
~~the board~~. 26328

(C) The attorney general may charge and collect such fees 26329
from applicants and permittees as are necessary to cover the costs 26330
of administering and enforcing the investigative procedures 26331
authorized in sections 3734.41 to 3734.47 of the Revised Code. The 26332
attorney general shall transmit moneys collected under this 26333
division to the treasurer of state to be credited to the solid and 26334
hazardous waste background investigations fund, which is hereby 26335
created in the state treasury. Moneys in the fund shall be used 26336
solely for paying the attorney general's costs of administering 26337
and enforcing the investigative procedures authorized in sections 26338
3734.41 to 3734.47 of the Revised Code. 26339

(D) Annually on the anniversary date of the submission to the 26340
director by the attorney general of the investigative report for a 26341
specific facility, or annually on another date assigned by the 26342
attorney general, the appropriate applicant, permittee, or 26343

prospective owner shall submit to the attorney general, on a form 26344
provided by the attorney general, any and all information required 26345
to be included in a disclosure statement that has changed or been 26346
added in the immediately preceding year. If, in the immediately 26347
preceding year, there have been no changes in or additions to the 26348
information required to be included in a disclosure statement, the 26349
appropriate applicant, permittee, or prospective owner shall 26350
submit to the attorney general an affidavit stating that there 26351
have been no changes in or additions to that information during 26352
that time period. 26353

Notwithstanding the requirement for an annual submission of 26354
information, the following information shall be submitted within 26355
the periods specified: 26356

(1) Information required to be included in the disclosure 26357
statement for any new officer, director, partner, or key employee, 26358
to be submitted within ninety days from the addition of the 26359
officer, director, partner, or key employee; 26360

(2) Information required to be included in a disclosure 26361
statement for any new business concern, to be submitted within 26362
ninety days from the addition of the new business concern; 26363

(3) Information regarding any new criminal conviction, to be 26364
submitted within ninety days from the judgment entry of 26365
conviction. 26366

The failure to provide such information may constitute the 26367
basis for the revocation or denial of renewal of any permit or 26368
license issued in accordance with this chapter, provided that 26369
prior to any such denial or revocation, the director shall notify 26370
the applicant or permittee of the director's intention to do so 26371
and give the applicant or permittee fourteen days from the date of 26372
the notice to explain why the information was not provided. The 26373
director shall consider this information when determining whether 26374

to revoke or deny the permit or license. 26375

Nothing in this division affects the rights of the director 26376
or the attorney general granted under sections 3734.40 to 3734.47 26377
of the Revised Code to request information from a person at any 26378
other time. 26379

(E)(1) Except as otherwise provided in division (E)(2) of 26380
this section, every permittee who is not otherwise required to 26381
file a disclosure statement shall file a disclosure statement 26382
within five years after June 24, 1988, pursuant to a schedule for 26383
submissions of disclosure statements developed by the attorney 26384
general. The schedule shall provide all permittees and holders of 26385
a license with at least one hundred eighty days' notice prior to 26386
the date upon which the statement is to be submitted. All other 26387
terms of the schedule shall be established at the discretion of 26388
the attorney general and shall not be subject to judicial review. 26389

(2) An applicant for a permit for an off-site solid waste 26390
facility that is a scrap tire storage, monocell, monofill, or 26391
recovery facility issued under section 3734.76, 3734.77, or 26392
3734.78 of the Revised Code, as applicable, shall file a 26393
disclosure statement within five years after October 29, 1993, 26394
pursuant to a schedule for submissions of disclosure statements 26395
developed by the attorney general. The schedule shall provide all 26396
such applicants with at least one hundred eighty days' notice 26397
prior to the date upon which the statement shall be submitted. All 26398
other terms of the schedule shall be established at the discretion 26399
of the attorney general and shall not be subject to judicial 26400
review. 26401

Beginning five years after October 29, 1993, an applicant for 26402
such a permit shall file a disclosure statement in accordance with 26403
division (A)(1) of this section. 26404

(3) When a permittee submits a disclosure statement at the 26405

time it submits an application for a renewal or modification of 26406
its permit, the attorney general shall remove the permittee from 26407
the submission schedule established pursuant to division (E)(1) or 26408
(2) of this section. 26409

(4) After receiving a disclosure statement under division 26410
(E)(1) or (2) of this section, the attorney general shall prepare 26411
an investigative report and transmit it to the director. The 26412
director shall review the disclosure statement and investigative 26413
report to determine whether the statement or report contains 26414
information that if submitted with a permit application would 26415
require a denial of the permit pursuant to section 3734.44 of the 26416
Revised Code. If the director determines that the statement or 26417
report contains such information, the director may revoke any 26418
previously issued permit pursuant to section 3734.45 of the 26419
Revised Code, or the director shall deny any application for a 26420
renewal of a permit or license. When the renewal of the license is 26421
being performed by a board of health, the director shall instruct 26422
the board of health about those circumstances under which the 26423
renewal is required to be denied by this section. 26424

(F)(1) Whenever there is a change in ownership of any 26425
off-site solid waste facility, including incinerators, any 26426
transfer facility, any off-site infectious waste treatment 26427
facility, or any off-site hazardous waste treatment, storage, or 26428
disposal facility, the prospective owner shall file a disclosure 26429
statement with the attorney general and the director at least one 26430
hundred eighty days prior to the proposed change in ownership. 26431
Upon receipt of the disclosure statement, the attorney general 26432
shall prepare an investigative report and transmit it to the 26433
director. The director shall review the disclosure statement and 26434
investigative report to determine whether the statement or report 26435
contains information that if submitted with a permit application 26436
would require a denial of the permit pursuant to section 3734.44 26437

of the Revised Code. If the director determines that the statement 26438
or report contains such information, the director shall disapprove 26439
the change in ownership. 26440

(2) If the parties to a change in ownership decide to proceed 26441
with the change prior to the action of the director on the 26442
disclosure statement and investigative report, the parties shall 26443
include in all contracts or other documents reflecting the change 26444
in ownership language expressly making the change in ownership 26445
subject to the approval of the director and expressly negating the 26446
change if it is disapproved by the director pursuant to division 26447
(F)(1) of this section. 26448

(3) As used in this section, "change in ownership" includes 26449
any change in the names, other than those of officers, directors, 26450
partners, or key employees, contained in the disclosure statement. 26451

Sec. 3734.44. Notwithstanding the provisions of any law to 26452
the contrary, no permit or license shall be issued or renewed by 26453
the director of environmental protection, ~~the hazardous waste~~ 26454
~~facility board,~~ or a board of health: 26455

(A) Unless the director, ~~the hazardous waste facility board,~~ 26456
or the board of health finds that the applicant, in any prior 26457
performance record in the transportation, transfer, treatment, 26458
storage, or disposal of solid wastes, infectious wastes, or 26459
hazardous waste, has exhibited sufficient reliability, expertise, 26460
and competency to operate the solid waste, infectious waste, or 26461
hazardous waste facility, given the potential for harm to human 26462
health and the environment that could result from the 26463
irresponsible operation of the facility, or, if no prior record 26464
exists, that the applicant is likely to exhibit that reliability, 26465
expertise, and competence; 26466

(B) If any individual or business concern required to be 26467
listed in the disclosure statement or shown to have a beneficial 26468

interest in the business of the applicant or the permittee, other	26469
than an equity interest or debt liability, by the investigation	26470
thereof, has been convicted of any of the following crimes under	26471
the laws of this state or equivalent laws of any other	26472
jurisdiction:	26473
(1) Murder;	26474
(2) Kidnapping;	26475
(3) Gambling;	26476
(4) Robbery;	26477
(5) Bribery;	26478
(6) Extortion;	26479
(7) Criminal usury;	26480
(8) Arson;	26481
(9) Burglary;	26482
(10) Theft and related crimes;	26483
(11) Forgery and fraudulent practices;	26484
(12) Fraud in the offering, sale, or purchase of securities;	26485
(13) Alteration of motor vehicle identification numbers;	26486
(14) Unlawful manufacture, purchase, use, or transfer of	26487
firearms;	26488
(15) Unlawful possession or use of destructive devices or	26489
explosives;	26490
(16) Violation of section 2925.03, 2925.04, 2925.05, 2925.06,	26491
2925.11, 2925.32, or 2925.37 or Chapter 3719. of the Revised Code,	26492
unless the violation is for possession of less than one hundred	26493
grams of marihuana, less than five grams of marihuana resin or	26494
extraction or preparation of marihuana resin, or less than one	26495
gram of marihuana resin in a liquid concentrate, liquid extract,	26496

or liquid distillate form;	26497
(17) Engaging in a pattern of corrupt activity under section 2923.32 of the Revised Code;	26498 26499
(18) Violation of criminal provisions of Chapter 1331. of the Revised Code;	26500 26501
(19) Any violation of the criminal provisions of any federal or state environmental protection laws, rules, or regulations that is committed knowingly or recklessly, as defined in section 2901.22 of the Revised Code;	26502 26503 26504 26505
(20) Violation of Chapter 2909. of the Revised Code;	26506
(21) Any offense specified in Chapter 2921. of the Revised Code.	26507 26508
(C) Notwithstanding division (B) of this section, no applicant shall be denied the issuance or renewal of a permit or license on the basis of a conviction of any individual or business concern required to be listed in the disclosure statement or shown to have a beneficial interest in the business of the applicant or the permittee, other than an equity interest or debt liability, by the investigation thereof for any of the offenses enumerated in that division as disqualification criteria if that applicant has affirmatively demonstrated rehabilitation of the individual or business concern by a preponderance of the evidence. If any such individual was convicted of any of the offenses so enumerated that are felonies, a permit shall be denied unless five years have elapsed since the individual was fully discharged from imprisonment and parole for the offense, from a post-release control sanction imposed under section 2967.28 of the Revised Code for the offense, or imprisonment, probation, and parole for an offense that was committed prior to the effective date of this amendment. In determining whether an applicant has affirmatively demonstrated rehabilitation, the director, the hazardous waste	26509 26510 26511 26512 26513 26514 26515 26516 26517 26518 26519 26520 26521 26522 26523 26524 26525 26526 26527

~~facility board,~~ or the board of health shall request a 26528
recommendation on the matter from the attorney general and shall 26529
consider and base the determination on the following factors: 26530

- (1) The nature and responsibilities of the position a 26531
convicted individual would hold; 26532
- (2) The nature and seriousness of the offense; 26533
- (3) The circumstances under which the offense occurred; 26534
- (4) The date of the offense; 26535
- (5) The age of the individual when the offense was committed; 26536
- (6) Whether the offense was an isolated or repeated incident; 26537
- (7) Any social conditions that may have contributed to the 26538
offense; 26539
- (8) Any evidence of rehabilitation, including good conduct in 26540
prison or in the community, counseling or psychiatric treatment 26541
received, acquisition of additional academic or vocational 26542
schooling, successful participation in correctional work release 26543
programs, or the recommendation of persons who have or have had 26544
the applicant under their supervision; 26545
- (9) In the instance of an applicant that is a business 26546
concern, rehabilitation shall be established if the applicant has 26547
implemented formal management controls to minimize and prevent the 26548
occurrence of violations and activities that will or may result in 26549
permit or license denial or revocation or if the applicant has 26550
formalized those controls as a result of a revocation or denial of 26551
a permit or license. Those controls may include, but are not 26552
limited to, instituting environmental auditing programs to help 26553
ensure the adequacy of internal systems to achieve, maintain, and 26554
monitor compliance with applicable environmental laws and 26555
standards or instituting an antitrust compliance auditing program 26556
to help ensure full compliance with applicable antitrust laws. The 26557

business concern shall prove by a preponderance of the evidence 26558
that the management controls are effective in preventing the 26559
violations that are the subject of concern. 26560

(D) Unless the director, ~~the hazardous waste facility board,~~ 26561
or the board of health finds that the applicant has a history of 26562
compliance with environmental laws in this state and other 26563
jurisdictions and is presently in substantial compliance with, or 26564
on a legally enforceable schedule that will result in compliance 26565
with, environmental laws in this state and other jurisdictions. ~~i~~ 26566

(E) With respect to the approval of a permit, if the director 26567
~~or the hazardous waste facility board~~ determines that current 26568
prosecutions or pending charges in any jurisdiction for any of the 26569
offenses enumerated in division (B) of this section against any 26570
individual or business concern required to be listed in the 26571
disclosure statement or shown by the investigation to have a 26572
beneficial interest in the business of the applicant other than an 26573
equity interest or debt liability are of such magnitude that they 26574
prevent making the finding required under division (A) of this 26575
section, provided that at the request of the applicant or the 26576
individual or business concern charged, the director ~~or the~~ 26577
~~hazardous waste facility board~~ shall defer decision upon the 26578
application during the pendency of the charge. 26579

Sec. 3734.46. Notwithstanding the disqualification of the 26580
applicant or permittee pursuant to this chapter, the director of 26581
environmental protection, ~~hazardous waste facility board,~~ or the 26582
board of health may issue or renew a permit or license if the 26583
applicant or permittee severs the interest of or affiliation with 26584
the individual or business concern that would otherwise cause that 26585
disqualification or may issue or renew a license on a temporary 26586
basis for a period not to exceed six months if the director or the 26587
board of health determines that the issuance or renewal of the 26588

permit or license is necessitated by the public interest. 26589

Sec. 3734.57. (A) For the purposes of paying the state's 26590
long-term operation costs or matching share for actions taken 26591
under the "Comprehensive Environmental Response, Compensation, and 26592
Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as 26593
amended; paying the costs of measures for proper clean-up of sites 26594
where polychlorinated biphenyls and substances, equipment, and 26595
devices containing or contaminated with polychlorinated biphenyls 26596
have been stored or disposed of; paying the costs of conducting 26597
surveys or investigations of solid waste facilities or other 26598
locations where it is believed that significant quantities of 26599
hazardous waste were disposed of and for conducting enforcement 26600
actions arising from the findings of such surveys or 26601
investigations; paying the costs of acquiring and cleaning up, or 26602
providing financial assistance for cleaning up, any hazardous 26603
waste facility or solid waste facility containing significant 26604
quantities of hazardous waste, that constitutes an imminent and 26605
substantial threat to public health or safety or the environment; 26606
and, from July 1, ~~2001~~ 2003, through June 30, ~~2004~~ 2006, for the 26607
purposes of paying the costs of administering and enforcing the 26608
laws pertaining to solid wastes, infectious wastes, and 26609
construction and demolition debris, including, without limitation, 26610
ground water evaluations related to solid wastes, infectious 26611
wastes, and construction and demolition debris, under this chapter 26612
and Chapter 3714. of the Revised Code and any rules adopted under 26613
them, and paying a share of the administrative costs of the 26614
environmental protection agency pursuant to section 3745.014 of 26615
the Revised Code, the following fees are hereby levied on the 26616
disposal of solid wastes in this state: 26617

(1) One dollar per ton on and after July 1, 1993; 26618

(2) An additional ~~seventy-five cents~~ one dollar per ton on 26619

and after July 1, ~~2001~~ 2003, through June 30, ~~2004~~ 2006. 26620

The owner or operator of a solid waste disposal facility 26621
shall collect the fees levied under this division as a trustee for 26622
the state and shall prepare and file with the director of 26623
environmental protection monthly returns indicating the total 26624
tonnage of solid wastes received for disposal at the gate of the 26625
facility and the total amount of the fees collected under this 26626
division. Not later than thirty days after the last day of the 26627
month to which such a return applies, the owner or operator shall 26628
mail to the director the return for that month together with the 26629
fees collected during that month as indicated on the return. The 26630
owner or operator may request an extension of not more than thirty 26631
days for filing the return and remitting the fees, provided that 26632
the owner or operator has submitted such a request in writing to 26633
the director together with a detailed description of why the 26634
extension is requested, the director has received the request not 26635
later than the day on which the return is required to be filed, 26636
and the director has approved the request. If the fees are not 26637
remitted within sixty days after the last day of the month during 26638
which they were collected, the owner or operator shall pay an 26639
additional fifty per cent of the amount of the fees for each month 26640
that they are late. 26641

One-half of the moneys remitted to the director under 26642
division (A)(1) of this section shall be credited to the hazardous 26643
waste facility management fund created in section 3734.18 of the 26644
Revised Code, and one-half shall be credited to the hazardous 26645
waste clean-up fund created in section 3734.28 of the Revised 26646
Code. The moneys remitted to the director under division (A)(2) of 26647
this section shall be credited to the solid waste fund, which is 26648
hereby created in the state treasury. The environmental protection 26649
agency shall use moneys in the solid waste fund only to pay the 26650
costs of administering and enforcing the laws pertaining to solid 26651

wastes, infectious wastes, and construction and demolition debris, 26652
including, without limitation, ground water evaluations related to 26653
solid wastes, infectious wastes, and construction and demolition 26654
debris, under this chapter and Chapter 3714. of the Revised Code 26655
and rules adopted under them and to pay a share of the 26656
administrative costs of the environmental protection agency 26657
pursuant to section 3745.014 of the Revised Code. 26658

The fees levied under this division and divisions (B) and (C) 26659
of this section are in addition to all other applicable fees and 26660
taxes and shall be added to any other fee or amount specified in a 26661
contract that is charged by the owner or operator of a solid waste 26662
disposal facility or to any other fee or amount that is specified 26663
in a contract entered into on or after March 4, 1992, and that is 26664
charged by a transporter of solid wastes. 26665

(B) For the purpose of preparing, revising, and implementing 26666
the solid waste management plan of the county or joint solid waste 26667
management district, including, without limitation, the 26668
development and implementation of solid waste recycling or 26669
reduction programs; providing financial assistance to boards of 26670
health within the district, if solid waste facilities are located 26671
within the district, for the enforcement of this chapter and rules 26672
adopted and orders and terms and conditions of permits, licenses, 26673
and variances issued under it, other than the hazardous waste 26674
provisions of this chapter and rules adopted and orders and terms 26675
and conditions of permits issued under those provisions; providing 26676
financial assistance to the county to defray the added costs of 26677
maintaining roads and other public facilities and of providing 26678
emergency and other public services resulting from the location 26679
and operation of a solid waste facility within the county under 26680
the district's approved solid waste management plan; paying the 26681
costs incurred by boards of health for collecting and analyzing 26682
water samples from public or private wells on lands adjacent to 26683

solid waste facilities that are contained in the approved or 26684
amended plan of the district; paying the costs of developing and 26685
implementing a program for the inspection of solid wastes 26686
generated outside the boundaries of this state that are disposed 26687
of at solid waste facilities included in the district's approved 26688
solid waste management plan or amended plan; providing financial 26689
assistance to boards of health within the district for enforcing 26690
laws prohibiting open dumping; providing financial assistance to 26691
local law enforcement agencies within the district for enforcing 26692
laws and ordinances prohibiting littering; providing financial 26693
assistance to boards of health of health districts within the 26694
district that are on the approved list under section 3734.08 of 26695
the Revised Code for the training and certification required for 26696
their employees responsible for solid waste enforcement by rules 26697
adopted under division (L) of section 3734.02 of the Revised Code; 26698
providing financial assistance to individual municipal 26699
corporations and townships within the district to defray their 26700
added costs of maintaining roads and other public facilities and 26701
of providing emergency and other public services resulting from 26702
the location and operation within their boundaries of a 26703
composting, energy or resource recovery, incineration, or 26704
recycling facility that either is owned by the district or is 26705
furnishing solid waste management facility or recycling services 26706
to the district pursuant to a contract or agreement with the board 26707
of county commissioners or directors of the district; and payment 26708
of any expenses that are agreed to, awarded, or ordered to be paid 26709
under section 3734.35 of the Revised Code and of any 26710
administrative costs incurred pursuant to that section, the solid 26711
waste management policy committee of a county or joint solid waste 26712
management district may levy fees upon the following activities: 26713

(1) The disposal at a solid waste disposal facility located 26714
in the district of solid wastes generated within the district; 26715

(2) The disposal at a solid waste disposal facility within 26716
the district of solid wastes generated outside the boundaries of 26717
the district, but inside this state; 26718

(3) The disposal at a solid waste disposal facility within 26719
the district of solid wastes generated outside the boundaries of 26720
this state. 26721

If any such fees are levied prior to January 1, 1994, fees 26722
levied under division (B)(1) of this section always shall be equal 26723
to one-half of the fees levied under division (B)(2) of this 26724
section, and fees levied under division (B)(3) of this section, 26725
which shall be in addition to fees levied under division (B)(2) of 26726
this section, always shall be equal to fees levied under division 26727
(B)(1) of this section, except as otherwise provided in this 26728
division. The solid waste management plan of the county or joint 26729
district approved under section 3734.521 or 3734.55 of the Revised 26730
Code and any amendments to it, or the resolution adopted under 26731
this division, as appropriate, shall establish the rates of the 26732
fees levied under divisions (B)(1), (2), and (3) of this section, 26733
if any, and shall specify whether the fees are levied on the basis 26734
of tons or cubic yards as the unit of measurement. Although the 26735
fees under divisions (A)(1) and (2) of this section are levied on 26736
the basis of tons as the unit of measurement, the solid waste 26737
management plan of the district and any amendments to it or the 26738
solid waste management policy committee in its resolution levying 26739
fees under this division may direct that the fees levied under 26740
those divisions be levied on the basis of cubic yards as the unit 26741
of measurement based upon a conversion factor of three cubic yards 26742
per ton generally or one cubic yard per ton for baled wastes if 26743
the fees under divisions (B)(1) to (3) of this section are being 26744
levied on the basis of cubic yards as the unit of measurement 26745
under the plan, amended plan, or resolution. 26746

On and after January 1, 1994, the fee levied under division 26747

(B)(1) of this section shall be not less than one dollar per ton 26748
nor more than two dollars per ton, the fee levied under division 26749
(B)(2) of this section shall be not less than two dollars per ton 26750
nor more than four dollars per ton, and the fee levied under 26751
division (B)(3) of this section shall be not more than the fee 26752
levied under division (B)(1) of this section, except as otherwise 26753
provided in this division and notwithstanding any schedule of 26754
those fees established in the solid waste management plan of a 26755
county or joint district approved under section 3734.55 of the 26756
Revised Code or a resolution adopted and ratified under this 26757
division that is in effect on that date. If the fee that a 26758
district is levying under division (B)(1) of this section on that 26759
date under its approved plan or such a resolution is less than one 26760
dollar per ton, the fee shall be one dollar per ton on and after 26761
January 1, 1994, and if the fee that a district is so levying 26762
under that division exceeds two dollars per ton, the fee shall be 26763
two dollars per ton on and after that date. If the fee that a 26764
district is so levying under division (B)(2) of this section is 26765
less than two dollars per ton, the fee shall be two dollars per 26766
ton on and after that date, and if the fee that the district is so 26767
levying under that division exceeds four dollars per ton, the fee 26768
shall be four dollars per ton on and after that date. On that 26769
date, the fee levied by a district under division (B)(3) of this 26770
section shall be equal to the fee levied under division (B)(1) of 26771
this section. Except as otherwise provided in this division, the 26772
fees established by the operation of this amendment shall remain 26773
in effect until the district's resolution levying fees under this 26774
division is amended or repealed in accordance with this division 26775
to amend or abolish the schedule of fees, the schedule of fees is 26776
amended or abolished in an amended plan of the district approved 26777
under section 3734.521 or division (A) or (D) of section 3734.56 26778
of the Revised Code, or the schedule of fees is amended or 26779
abolished through an amendment to the district's plan under 26780

division (E) of section 3734.56 of the Revised Code; the 26781
notification of the amendment or abolishment of the fees has been 26782
given in accordance with this division; and collection of the 26783
amended fees so established commences, or collection of the fees 26784
ceases, in accordance with this division. 26785

The solid waste management policy committee of a district 26786
levying fees under divisions (B)(1) to (3) of this section on 26787
October 29, 1993, under its solid waste management plan approved 26788
under section 3734.55 of the Revised Code or a resolution adopted 26789
and ratified under this division that are within the ranges of 26790
rates prescribed by this amendment, by adoption of a resolution 26791
not later than December 1, 1993, and without the necessity for 26792
ratification of the resolution under this division, may amend 26793
those fees within the prescribed ranges, provided that the 26794
estimated revenues from the amended fees will not substantially 26795
exceed the estimated revenues set forth in the district's budget 26796
for calendar year 1994. Not later than seven days after the 26797
adoption of such a resolution, the committee shall notify by 26798
certified mail the owner or operator of each solid waste disposal 26799
facility that is required to collect the fees of the adoption of 26800
the resolution and of the amount of the amended fees. Collection 26801
of the amended fees shall take effect on the first day of the 26802
first month following the month in which the notification is sent 26803
to the owner or operator. The fees established in such a 26804
resolution shall remain in effect until the district's resolution 26805
levying fees that was adopted and ratified under this division is 26806
amended or repealed, and the amendment or repeal of the resolution 26807
is ratified, in accordance with this division, to amend or abolish 26808
the fees, the schedule of fees is amended or abolished in an 26809
amended plan of the district approved under section 3734.521 or 26810
division (A) or (D) of section 3734.56 of the Revised Code, or the 26811
schedule of fees is amended or abolished through an amendment to 26812
the district's plan under division (E) of section 3734.56 of the 26813

Revised Code; the notification of the amendment or abolishment of 26814
the fees has been given in accordance with this division; and 26815
collection of the amended fees so established commences, or 26816
collection of the fees ceases, in accordance with this division. 26817

Prior to the approval of the solid waste management plan of 26818
the district under section 3734.55 of the Revised Code, the solid 26819
waste management policy committee of a district may levy fees 26820
under this division by adopting a resolution establishing the 26821
proposed amount of the fees. Upon adopting the resolution, the 26822
committee shall deliver a copy of the resolution to the board of 26823
county commissioners of each county forming the district and to 26824
the legislative authority of each municipal corporation and 26825
township under the jurisdiction of the district and shall prepare 26826
and publish the resolution and a notice of the time and location 26827
where a public hearing on the fees will be held. Upon adopting the 26828
resolution, the committee shall deliver written notice of the 26829
adoption of the resolution; of the amount of the proposed fees; 26830
and of the date, time, and location of the public hearing to the 26831
director and to the fifty industrial, commercial, or institutional 26832
generators of solid wastes within the district that generate the 26833
largest quantities of solid wastes, as determined by the 26834
committee, and to their local trade associations. The committee 26835
shall make good faith efforts to identify those generators within 26836
the district and their local trade associations, but the 26837
nonprovision of notice under this division to a particular 26838
generator or local trade association does not invalidate the 26839
proceedings under this division. The publication shall occur at 26840
least thirty days before the hearing. After the hearing, the 26841
committee may make such revisions to the proposed fees as it 26842
considers appropriate and thereafter, by resolution, shall adopt 26843
the revised fee schedule. Upon adopting the revised fee schedule, 26844
the committee shall deliver a copy of the resolution doing so to 26845
the board of county commissioners of each county forming the 26846

district and to the legislative authority of each municipal 26847
corporation and township under the jurisdiction of the district. 26848
Within sixty days after the delivery of a copy of the resolution 26849
adopting the proposed revised fees by the policy committee, each 26850
such board and legislative authority, by ordinance or resolution, 26851
shall approve or disapprove the revised fees and deliver a copy of 26852
the ordinance or resolution to the committee. If any such board or 26853
legislative authority fails to adopt and deliver to the policy 26854
committee an ordinance or resolution approving or disapproving the 26855
revised fees within sixty days after the policy committee 26856
delivered its resolution adopting the proposed revised fees, it 26857
shall be conclusively presumed that the board or legislative 26858
authority has approved the proposed revised fees. 26859

In the case of a county district or a joint district formed 26860
by two or three counties, the committee shall declare the proposed 26861
revised fees to be ratified as the fee schedule of the district 26862
upon determining that the board of county commissioners of each 26863
county forming the district has approved the proposed revised fees 26864
and that the legislative authorities of a combination of municipal 26865
corporations and townships with a combined population within the 26866
district comprising at least sixty per cent of the total 26867
population of the district have approved the proposed revised 26868
fees, provided that in the case of a county district, that 26869
combination shall include the municipal corporation having the 26870
largest population within the boundaries of the district, and 26871
provided further that in the case of a joint district formed by 26872
two or three counties, that combination shall include for each 26873
county forming the joint district the municipal corporation having 26874
the largest population within the boundaries of both the county in 26875
which the municipal corporation is located and the joint district. 26876
In the case of a joint district formed by four or more counties, 26877
the committee shall declare the proposed revised fees to be 26878
ratified as the fee schedule of the joint district upon 26879

determining that the boards of county commissioners of a majority 26880
of the counties forming the district have approved the proposed 26881
revised fees; that, in each of a majority of the counties forming 26882
the joint district, the proposed revised fees have been approved 26883
by the municipal corporation having the largest population within 26884
the county and the joint district; and that the legislative 26885
authorities of a combination of municipal corporations and 26886
townships with a combined population within the joint district 26887
comprising at least sixty per cent of the total population of the 26888
joint district have approved the proposed revised fees. 26889

For the purposes of this division, only the population of the 26890
unincorporated area of a township shall be considered. For the 26891
purpose of determining the largest municipal corporation within 26892
each county under this division, a municipal corporation that is 26893
located in more than one solid waste management district, but that 26894
is under the jurisdiction of one county or joint solid waste 26895
management district in accordance with division (A) of section 26896
3734.52 of the Revised Code shall be considered to be within the 26897
boundaries of the county in which a majority of the population of 26898
the municipal corporation resides. 26899

The committee may amend the schedule of fees levied pursuant 26900
to a resolution or amended resolution adopted and ratified under 26901
this division by adopting a resolution establishing the proposed 26902
amount of the amended fees. The committee may abolish the fees 26903
levied pursuant to such a resolution or amended resolution by 26904
adopting a resolution proposing to repeal them. Upon adopting such 26905
a resolution, the committee shall proceed to obtain ratification 26906
of the resolution in accordance with this division. 26907

Not later than fourteen days after declaring the fees or 26908
amended fees to be ratified under this division, the committee 26909
shall notify by certified mail the owner or operator of each solid 26910
waste disposal facility that is required to collect the fees of 26911

the ratification and the amount of the fees. Collection of any 26912
fees or amended fees ratified on or after March 24, 1992, shall 26913
commence on the first day of the second month following the month 26914
in which notification is sent to the owner or operator. 26915

Not later than fourteen days after declaring the repeal of 26916
the district's schedule of fees to be ratified under this 26917
division, the committee shall notify by certified mail the owner 26918
or operator of each facility that is collecting the fees of the 26919
repeal. Collection of the fees shall cease on the first day of the 26920
second month following the month in which notification is sent to 26921
the owner or operator. 26922

Not later than fourteen days after the director issues an 26923
order approving a district's solid waste management plan under 26924
section 3734.55 of the Revised Code or amended plan under division 26925
(A) or (D) of section 3734.56 of the Revised Code that establishes 26926
or amends a schedule of fees levied by the district, or the 26927
ratification of an amendment to the district's approved plan or 26928
amended plan under division (E) of section 3734.56 of the Revised 26929
Code that establishes or amends a schedule of fees, as 26930
appropriate, the committee shall notify by certified mail the 26931
owner or operator of each solid waste disposal facility that is 26932
required to collect the fees of the approval of the plan or 26933
amended plan, or the amendment to the plan, as appropriate, and 26934
the amount of the fees or amended fees. In the case of an initial 26935
or amended plan approved under section 3734.521 of the Revised 26936
Code in connection with a change in district composition, other 26937
than one involving the withdrawal of a county from a joint 26938
district, that establishes or amends a schedule of fees levied 26939
under divisions (B)(1) to (3) of this section by a district 26940
resulting from the change, the committee, within fourteen days 26941
after the change takes effect pursuant to division (G) of that 26942
section, shall notify by certified mail the owner or operator of 26943

each solid waste disposal facility that is required to collect the 26944
fees that the change has taken effect and of the amount of the 26945
fees or amended fees. Collection of any fees set forth in a plan 26946
or amended plan approved by the director on or after April 16, 26947
1993, or an amendment of a plan or amended plan under division (E) 26948
of section 3734.56 of the Revised Code that is ratified on or 26949
after April 16, 1993, shall commence on the first day of the 26950
second month following the month in which notification is sent to 26951
the owner or operator. 26952

Not later than fourteen days after the director issues an 26953
order approving a district's plan under section 3734.55 of the 26954
Revised Code or amended plan under division (A) or (D) of section 26955
3734.56 of the Revised Code that abolishes the schedule of fees 26956
levied under divisions (B)(1) to (3) of this section, or an 26957
amendment to the district's approved plan or amended plan 26958
abolishing the schedule of fees is ratified pursuant to division 26959
(E) of section 3734.56 of the Revised Code, as appropriate, the 26960
committee shall notify by certified mail the owner or operator of 26961
each facility that is collecting the fees of the approval of the 26962
plan or amended plan, or the amendment of the plan or amended 26963
plan, as appropriate, and the abolishment of the fees. In the case 26964
of an initial or amended plan approved under section 3734.521 of 26965
the Revised Code in connection with a change in district 26966
composition, other than one involving the withdrawal of a county 26967
from a joint district, that abolishes the schedule of fees levied 26968
under divisions (B)(1) to (3) of this section by a district 26969
resulting from the change, the committee, within fourteen days 26970
after the change takes effect pursuant to division (G) of that 26971
section, shall notify by certified mail the owner or operator of 26972
each solid waste disposal facility that is required to collect the 26973
fees that the change has taken effect and of the abolishment of 26974
the fees. Collection of the fees shall cease on the first day of 26975
the second month following the month in which notification is sent 26976

to the owner or operator. 26977

Except as otherwise provided in this division, if the 26978
schedule of fees that a district is levying under divisions (B)(1) 26979
to (3) of this section pursuant to a resolution or amended 26980
resolution adopted and ratified under this division, the solid 26981
waste management plan of the district approved under section 26982
3734.55 of the Revised Code, an amended plan approved under 26983
division (A) or (D) of section 3734.56 of the Revised Code, or an 26984
amendment to the district's approved plan or amended plan under 26985
division (E) of section 3734.56 of the Revised Code, is amended by 26986
the adoption and ratification of an amendment to the resolution or 26987
amended resolution or an amendment of the district's approved plan 26988
or amended plan, the fees in effect immediately prior to the 26989
approval of the plan or the amendment of the resolution, amended 26990
resolution, plan, or amended plan, as appropriate, shall continue 26991
to be collected until collection of the amended fees commences 26992
pursuant to this division. 26993

If, in the case of a change in district composition involving 26994
the withdrawal of a county from a joint district, the director 26995
completes the actions required under division (G)(1) or (3) of 26996
section 3734.521 of the Revised Code, as appropriate, forty-five 26997
days or more before the beginning of a calendar year, the policy 26998
committee of each of the districts resulting from the change that 26999
obtained the director's approval of an initial or amended plan in 27000
connection with the change, within fourteen days after the 27001
director's completion of the required actions, shall notify by 27002
certified mail the owner or operator of each solid waste disposal 27003
facility that is required to collect the district's fees that the 27004
change is to take effect on the first day of January immediately 27005
following the issuance of the notice and of the amount of the fees 27006
or amended fees levied under divisions (B)(1) to (3) of this 27007
section pursuant to the district's initial or amended plan as so 27008

approved or, if appropriate, the abolishment of the district's 27009
fees by that initial or amended plan. Collection of any fees set 27010
forth in such a plan or amended plan shall commence on the first 27011
day of January immediately following the issuance of the notice. 27012
If such an initial or amended plan abolishes a schedule of fees, 27013
collection of the fees shall cease on that first day of January. 27014

If, in the case of a change in district composition involving 27015
the withdrawal of a county from a joint district, the director 27016
completes the actions required under division (G)(1) or (3) of 27017
section 3734.521 of the Revised Code, as appropriate, less than 27018
forty-five days before the beginning of a calendar year, the 27019
director, on behalf of each of the districts resulting from the 27020
change that obtained the director's approval of an initial or 27021
amended plan in connection with the change proceedings, shall 27022
notify by certified mail the owner or operator of each solid waste 27023
disposal facility that is required to collect the district's fees 27024
that the change is to take effect on the first day of January 27025
immediately following the mailing of the notice and of the amount 27026
of the fees or amended fees levied under divisions (B)(1) to (3) 27027
of this section pursuant to the district's initial or amended plan 27028
as so approved or, if appropriate, the abolishment of the 27029
district's fees by that initial or amended plan. Collection of any 27030
fees set forth in such a plan or amended plan shall commence on 27031
the first day of the second month following the month in which 27032
notification is sent to the owner or operator. If such an initial 27033
or amended plan abolishes a schedule of fees, collection of the 27034
fees shall cease on the first day of the second month following 27035
the month in which notification is sent to the owner or operator. 27036

In the case of a change in district composition, the schedule 27037
of fees that the former districts that existed prior to the change 27038
were levying under divisions (B)(1) to (3) of this section 27039
pursuant to a resolution or amended resolution adopted and 27040

ratified under this division, the solid waste management plan of a 27041
former district approved under section 3734.521 or 3734.55 of the 27042
Revised Code, an amended plan approved under section 3734.521 or 27043
division (A) or (D) of section 3734.56 of the Revised Code, or an 27044
amendment to a former district's approved plan or amended plan 27045
under division (E) of section 3734.56 of the Revised Code, and 27046
that were in effect on the date that the director completed the 27047
actions required under division (G)(1) or (3) of section 3734.521 27048
of the Revised Code shall continue to be collected until the 27049
collection of the fees or amended fees of the districts resulting 27050
from the change is required to commence, or if an initial or 27051
amended plan of a resulting district abolishes a schedule of fees, 27052
collection of the fees is required to cease, under this division. 27053
Moneys so received from the collection of the fees of the former 27054
districts shall be divided among the resulting districts in 27055
accordance with division (B) of section 343.012 of the Revised 27056
Code and the agreements entered into under division (B) of section 27057
343.01 of the Revised Code to establish the former and resulting 27058
districts and any amendments to those agreements. 27059

For the purposes of the provisions of division (B) of this 27060
section establishing the times when newly established or amended 27061
fees levied by a district are required to commence and the 27062
collection of fees that have been amended or abolished is required 27063
to cease, "fees" or "schedule of fees" includes, in addition to 27064
fees levied under divisions (B)(1) to (3) of this section, those 27065
levied under section 3734.573 or 3734.574 of the Revised Code. 27066

(C) For the purposes of defraying the added costs to a 27067
municipal corporation or township of maintaining roads and other 27068
public facilities and of providing emergency and other public 27069
services, and compensating a municipal corporation or township for 27070
reductions in real property tax revenues due to reductions in real 27071
property valuations resulting from the location and operation of a 27072

solid waste disposal facility within the municipal corporation or 27073
township, a municipal corporation or township in which such a 27074
solid waste disposal facility is located may levy a fee of not 27075
more than twenty-five cents per ton on the disposal of solid 27076
wastes at a solid waste disposal facility located within the 27077
boundaries of the municipal corporation or township regardless of 27078
where the wastes were generated. 27079

The legislative authority of a municipal corporation or 27080
township may levy fees under this division by enacting an 27081
ordinance or adopting a resolution establishing the amount of the 27082
fees. Upon so doing the legislative authority shall mail a 27083
certified copy of the ordinance or resolution to the board of 27084
county commissioners or directors of the county or joint solid 27085
waste management district in which the municipal corporation or 27086
township is located or, if a regional solid waste management 27087
authority has been formed under section 343.011 of the Revised 27088
Code, to the board of trustees of that regional authority, the 27089
owner or operator of each solid waste disposal facility in the 27090
municipal corporation or township that is required to collect the 27091
fee by the ordinance or resolution, and the director of 27092
environmental protection. Although the fees levied under this 27093
division are levied on the basis of tons as the unit of 27094
measurement, the legislative authority, in its ordinance or 27095
resolution levying the fees under this division, may direct that 27096
the fees be levied on the basis of cubic yards as the unit of 27097
measurement based upon a conversion factor of three cubic yards 27098
per ton generally or one cubic yard per ton for baled wastes. 27099

Not later than five days after enacting an ordinance or 27100
adopting a resolution under this division, the legislative 27101
authority shall so notify by certified mail the owner or operator 27102
of each solid waste disposal facility that is required to collect 27103
the fee. Collection of any fee levied on or after March 24, 1992, 27104

shall commence on the first day of the second month following the 27105
month in which notification is sent to the owner or operator. 27106

(D)(1) The fees levied under divisions (A), (B), and (C) of 27107
this section do not apply to the disposal of solid wastes that: 27108

(a) Are disposed of at a facility owned by the generator of 27109
the wastes when the solid waste facility exclusively disposes of 27110
solid wastes generated at one or more premises owned by the 27111
generator regardless of whether the facility is located on a 27112
premises where the wastes are generated; 27113

(b) Are disposed of at facilities that exclusively dispose of 27114
wastes that are generated from the combustion of coal, or from the 27115
combustion of primarily coal in combination with scrap tires, that 27116
is not combined in any way with garbage at one or more premises 27117
owned by the generator. 27118

(2) Except as provided in section 3734.571 of the Revised 27119
Code, any fees levied under division (B)(1) of this section apply 27120
to solid wastes originating outside the boundaries of a county or 27121
joint district that are covered by an agreement for the joint use 27122
of solid waste facilities entered into under section 343.02 of the 27123
Revised Code by the board of county commissioners or board of 27124
directors of the county or joint district where the wastes are 27125
generated and disposed of. 27126

(3) When solid wastes, other than solid wastes that consist 27127
of scrap tires, are burned in a disposal facility that is an 27128
incinerator or energy recovery facility, the fees levied under 27129
divisions (A), (B), and (C) of this section shall be levied upon 27130
the disposal of the fly ash and bottom ash remaining after burning 27131
of the solid wastes and shall be collected by the owner or 27132
operator of the sanitary landfill where the ash is disposed of. 27133

(4) When solid wastes are delivered to a solid waste transfer 27134
facility, the fees levied under divisions (A), (B), and (C) of 27135

this section shall be levied upon the disposal of solid wastes 27136
transported off the premises of the transfer facility for disposal 27137
and shall be collected by the owner or operator of the solid waste 27138
disposal facility where the wastes are disposed of. 27139

(5) The fees levied under divisions (A), (B), and (C) of this 27140
section do not apply to sewage sludge that is generated by a waste 27141
water treatment facility holding a national pollutant discharge 27142
elimination system permit and that is disposed of through 27143
incineration, land application, or composting or at another 27144
resource recovery or disposal facility that is not a landfill. 27145

(6) The fees levied under divisions (A), (B), and (C) of this 27146
section do not apply to solid wastes delivered to a solid waste 27147
composting facility for processing. When any unprocessed solid 27148
waste or compost product is transported off the premises of a 27149
composting facility and disposed of at a landfill, the fees levied 27150
under divisions (A), (B), and (C) of this section shall be 27151
collected by the owner or operator of the landfill where the 27152
unprocessed waste or compost product is disposed of. 27153

(7) When solid wastes that consist of scrap tires are 27154
processed at a scrap tire recovery facility, the fees levied under 27155
divisions (A), (B), and (C) of this section shall be levied upon 27156
the disposal of the fly ash and bottom ash or other solid wastes 27157
remaining after the processing of the scrap tires and shall be 27158
collected by the owner or operator of the solid waste disposal 27159
facility where the ash or other solid wastes are disposed of. 27160

(E) The fees levied under divisions (B) and (C) of this 27161
section shall be collected by the owner or operator of the solid 27162
waste disposal facility where the wastes are disposed of as a 27163
trustee for the county or joint district and municipal corporation 27164
or township where the wastes are disposed of. Moneys from the fees 27165
levied under division (B) of this section shall be forwarded to 27166
the board of county commissioners or board of directors of the 27167

district in accordance with rules adopted under division (H) of 27168
this section. Moneys from the fees levied under division (C) of 27169
this section shall be forwarded to the treasurer or such other 27170
officer of the municipal corporation as, by virtue of the charter, 27171
has the duties of the treasurer or to the clerk of the township, 27172
as appropriate, in accordance with those rules. 27173

(F) Moneys received by the treasurer or such other officer of 27174
the municipal corporation under division (E) of this section shall 27175
be paid into the general fund of the municipal corporation. Moneys 27176
received by the clerk of the township under that division shall be 27177
paid into the general fund of the township. The treasurer or such 27178
other officer of the municipal corporation or the clerk, as 27179
appropriate, shall maintain separate records of the moneys 27180
received from the fees levied under division (C) of this section. 27181

(G) Moneys received by the board of county commissioners or 27182
board of directors under division (E) of this section or section 27183
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code 27184
shall be paid to the county treasurer, or other official acting in 27185
a similar capacity under a county charter, in a county district or 27186
to the county treasurer or other official designated by the board 27187
of directors in a joint district and kept in a separate and 27188
distinct fund to the credit of the district. If a regional solid 27189
waste management authority has been formed under section 343.011 27190
of the Revised Code, moneys received by the board of trustees of 27191
that regional authority under division (E) of this section shall 27192
be kept by the board in a separate and distinct fund to the credit 27193
of the district. Moneys in the special fund of the county or joint 27194
district arising from the fees levied under division (B) of this 27195
section and the fee levied under division (A) of section 3734.573 27196
of the Revised Code shall be expended by the board of county 27197
commissioners or directors of the district in accordance with the 27198
district's solid waste management plan or amended plan approved 27199

under section 3734.521, 3734.55, or 3734.56 of the Revised Code	27200
exclusively for the following purposes:	27201
(1) Preparation of the solid waste management plan of the	27202
district under section 3734.54 of the Revised Code, monitoring	27203
implementation of the plan, and conducting the periodic review and	27204
amendment of the plan required by section 3734.56 of the Revised	27205
Code by the solid waste management policy committee;	27206
(2) Implementation of the approved solid waste management	27207
plan or amended plan of the district, including, without	27208
limitation, the development and implementation of solid waste	27209
recycling or reduction programs;	27210
(3) Providing financial assistance to boards of health within	27211
the district, if solid waste facilities are located within the	27212
district, for enforcement of this chapter and rules, orders, and	27213
terms and conditions of permits, licenses, and variances adopted	27214
or issued under it, other than the hazardous waste provisions of	27215
this chapter and rules adopted and orders and terms and conditions	27216
of permits issued under those provisions;	27217
(4) Providing financial assistance to each county within the	27218
district to defray the added costs of maintaining roads and other	27219
public facilities and of providing emergency and other public	27220
services resulting from the location and operation of a solid	27221
waste facility within the county under the district's approved	27222
solid waste management plan or amended plan;	27223
(5) Pursuant to contracts entered into with boards of health	27224
within the district, if solid waste facilities contained in the	27225
district's approved plan or amended plan are located within the	27226
district, for paying the costs incurred by those boards of health	27227
for collecting and analyzing samples from public or private water	27228
wells on lands adjacent to those facilities;	27229
(6) Developing and implementing a program for the inspection	27230

of solid wastes generated outside the boundaries of this state 27231
that are disposed of at solid waste facilities included in the 27232
district's approved solid waste management plan or amended plan; 27233

(7) Providing financial assistance to boards of health within 27234
the district for the enforcement of section 3734.03 of the Revised 27235
Code or to local law enforcement agencies having jurisdiction 27236
within the district for enforcing anti-littering laws and 27237
ordinances; 27238

(8) Providing financial assistance to boards of health of 27239
health districts within the district that are on the approved list 27240
under section 3734.08 of the Revised Code to defray the costs to 27241
the health districts for the participation of their employees 27242
responsible for enforcement of the solid waste provisions of this 27243
chapter and rules adopted and orders and terms and conditions of 27244
permits, licenses, and variances issued under those provisions in 27245
the training and certification program as required by rules 27246
adopted under division (L) of section 3734.02 of the Revised Code; 27247

(9) Providing financial assistance to individual municipal 27248
corporations and townships within the district to defray their 27249
added costs of maintaining roads and other public facilities and 27250
of providing emergency and other public services resulting from 27251
the location and operation within their boundaries of a 27252
composting, energy or resource recovery, incineration, or 27253
recycling facility that either is owned by the district or is 27254
furnishing solid waste management facility or recycling services 27255
to the district pursuant to a contract or agreement with the board 27256
of county commissioners or directors of the district; 27257

(10) Payment of any expenses that are agreed to, awarded, or 27258
ordered to be paid under section 3734.35 of the Revised Code and 27259
of any administrative costs incurred pursuant to that section. In 27260
the case of a joint solid waste management district, if the board 27261
of county commissioners of one of the counties in the district is 27262

negotiating on behalf of affected communities, as defined in that 27263
section, in that county, the board shall obtain the approval of 27264
the board of directors of the district in order to expend moneys 27265
for administrative costs incurred. 27266

Prior to the approval of the district's solid waste 27267
management plan under section 3734.55 of the Revised Code, moneys 27268
in the special fund of the district arising from the fees shall be 27269
expended for those purposes in the manner prescribed by the solid 27270
waste management policy committee by resolution. 27271

Notwithstanding division (G)(6) of this section as it existed 27272
prior to October 29, 1993, or any provision in a district's solid 27273
waste management plan prepared in accordance with division 27274
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 27275
prior to that date, any moneys arising from the fees levied under 27276
division (B)(3) of this section prior to January 1, 1994, may be 27277
expended for any of the purposes authorized in divisions (G)(1) to 27278
(10) of this section. 27279

(H) The director shall adopt rules in accordance with Chapter 27280
119. of the Revised Code prescribing procedures for collecting and 27281
forwarding the fees levied under divisions (B) and (C) of this 27282
section to the boards of county commissioners or directors of 27283
county or joint solid waste management districts and to the 27284
treasurers or other officers of municipal corporations or to the 27285
clerks of townships. The rules also shall prescribe the dates for 27286
forwarding the fees to the boards and officials and may prescribe 27287
any other requirements the director considers necessary or 27288
appropriate to implement and administer divisions (A), (B), and 27289
(C) of this section. Collection of the fees levied under division 27290
(A)(1) of this section shall commence on July 1, 1993. Collection 27291
of the fees levied under division (A)(2) of this section shall 27292
commence on January 1, 1994. 27293

Sec. 3737.01. As used in this chapter: 27294

(A) "Assistant fire marshal" means any person who is employed 27295
by the fire marshal and who carries out specific duties assigned 27296
by the fire marshal, including, but not limited to, enforcement of 27297
Chapters 3731., 3737., and 3743. of the Revised Code, fire 27298
inspection, fire code enforcement, fire investigation, and fire 27299
prevention, ~~or the regulation of underground storage tank systems~~ 27300
~~as defined in section 3737.87 of the Revised Code.~~ 27301

(B) "Consumer goods" means any item sold, leased, or rented 27302
primarily for personal or household use. 27303

(C) "Fire agency" means any state or local fire service or 27304
agency whose function is to examine the property of another person 27305
for the purpose of identifying fire safety hazards. 27306

(D) "Fire safety inspector" means any person who is a member 27307
of the civil service, as defined in section 124.01 of the Revised 27308
Code, or who is employed by or voluntarily serves a village or 27309
township, and who examines the property of another person for the 27310
purpose of identifying fire safety hazards. 27311

(E) "Person," in addition to the meaning in section 1.59 of 27312
the Revised Code, means the state and any political subdivision of 27313
the state, and any other entity, public or private. 27314

(F) "Responsible person" means the person responsible for 27315
compliance with the state fire code, including, but not limited 27316
to, the owner, lessee, agent, operator, or occupant of a building, 27317
premises, or vehicle. 27318

Sec. 3737.02. (A) The fire marshal may collect fees to cover 27319
the costs of performing inspections and other duties that the fire 27320
marshal is authorized or required by law to perform. Except as 27321
provided in division (B) of this section, all fees collected by 27322

the fire marshal shall be deposited to the credit of the fire marshal's fund. 27323
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(B) Fees collected under sections 3737.88 and 3737.881 of the Revised Code for operation of the underground storage tank and underground storage tank installer certification programs, moneys recovered under section 3737.89 of the Revised Code for the state's costs of undertaking corrective or enforcement actions under that section or section 3737.882 of the Revised Code, and fines and penalties collected under section 3737.882 of the Revised Code shall be credited to the underground storage tank administration fund, which is hereby created in the state treasury. All interest earned on moneys credited to the underground storage tank administration fund shall be credited to the fund. Moneys credited to the underground storage tank administration fund shall be used by the ~~fire marshal~~ superintendent of industrial compliance for implementation and enforcement of underground storage tank, corrective action, and installer certification programs under sections 3737.88 to 3737.89 of the Revised Code. 27325
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(C) The ~~fire marshal~~ superintendent shall take all actions necessary to obtain any federal funding available to carry out the ~~fire marshal's~~ superintendent's responsibilities under sections 3737.88 to 3737.89 of the Revised Code and federal laws regarding the cleaning up of releases of petroleum, as "release" is defined in section 3737.87 of the Revised Code, including, without limitation, any federal funds that are available to reimburse the state for the costs of undertaking corrective actions for such releases of petroleum. The state may, when appropriate, return to the United States any federal funds recovered under sections 3737.882 and 3737.89 of the Revised Code. 27342
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Sec. 3737.21. (A) The director of the ~~department of commerce~~ 27353

public safety shall appoint, from names submitted to the director 27354
by the state fire commission, a fire marshal, who shall serve at 27355
the pleasure of the director and shall possess the following 27356
qualifications: 27357

(1) A degree from an accredited college or university with 27358
specialized study in either the field of fire protection or fire 27359
protection engineering, or the equivalent qualifications 27360
determined from training, experience, and duties in a fire 27361
service; 27362

(2) Five years of recent, progressively more responsible 27363
experience in fire inspection, fire code enforcement, fire 27364
investigation, fire protection engineering, teaching of fire 27365
safety engineering, or fire fighting. 27366

(B) When a vacancy occurs in the position of fire marshal, 27367
the director shall notify the state fire commission. The 27368
commission shall communicate the fact of the vacancy by regular 27369
mail to all fire chiefs and fire protection engineers known to the 27370
commission, or whose identity may be ascertained by the commission 27371
by the exercise of due diligence. The commission, no earlier than 27372
thirty days after mailing the notification, shall compile a list 27373
of all applicants for the position of fire marshal who are 27374
qualified under this section. The commission shall submit the 27375
names of at least three persons on the list to the director. The 27376
director shall appoint the fire marshal from the list of at least 27377
three names or may request the commission to submit additional 27378
names. 27379

Sec. 3737.22. (A) The fire marshal shall do all of the 27380
following: 27381

(1) Adopt the state fire code under sections 3737.82 to 27382
3737.86 of the Revised Code; 27383

(2) Enforce the state fire code;	27384
(3) Appoint assistant fire marshals who are authorized to enforce the state fire code;	27385 27386
(4) Conduct investigations into the cause, origin, and circumstances of fires and explosions, and assist in the prosecution of persons believed to be guilty of arson or a similar crime;	27387 27388 27389 27390
(5) Compile statistics concerning loss due to fire and explosion as the fire marshal considers necessary, and consider the compatibility of the fire marshal's system of compilation with the systems of other state and federal agencies and fire marshals of other states;	27391 27392 27393 27394 27395
(6) Engage in research on the cause and prevention of losses due to fire and explosion;	27396 27397
(7) Engage in public education and informational activities which will inform the public of fire safety information;	27398 27399
(8) Operate a fire training academy and forensic laboratory;	27400
(9) Conduct other fire safety and fire fighting training activities for the public and groups as will further the cause of fire safety;	27401 27402 27403
(10) Conduct licensing examinations, and issue permits, licenses, and certificates, as authorized by the Revised Code;	27404 27405
(11) Conduct tests of fire protection systems and devices, and fire fighting equipment to determine compliance with the state fire code, unless a building is insured against the hazard of fire, in which case such tests may be performed by the company insuring the building;	27406 27407 27408 27409 27410
(12) Establish and collect fees for conducting licensing examinations and for issuing permits, licenses, and certificates;	27411 27412

(13) Make available for the prosecuting attorney and an 27413
assistant prosecuting attorney from each county of this state, in 27414
accordance with section 3737.331 of the Revised Code, a seminar 27415
program, attendance at which is optional, that is designed to 27416
provide current information, data, training, and techniques 27417
relative to the prosecution of arson cases; 27418

(14) Administer and enforce Chapter 3743. of the Revised 27419
Code; 27420

(15) Develop a uniform standard for the reporting of 27421
information required to be filed under division (E)(4) of section 27422
2921.22 of the Revised Code, and accept the reports of the 27423
information when they are filed. 27424

(B) The fire marshal shall appoint a chief deputy fire 27425
marshal, and shall employ professional and clerical assistants as 27426
the fire marshal considers necessary. The chief deputy shall be a 27427
competent former or current member of a fire agency and possess 27428
five years of recent, progressively more responsible experience in 27429
fire inspection, fire code enforcement, and fire code management. 27430
The chief deputy, with the approval of the director of ~~commerce~~ 27431
public safety, shall temporarily assume the duties of the fire 27432
marshal when the fire marshal is absent or temporarily unable to 27433
carry out the duties of the office. When there is a vacancy in the 27434
office of fire marshal, the chief deputy, with the approval of the 27435
director of ~~commerce~~ public safety, shall temporarily assume the 27436
duties of the fire marshal until a new fire marshal is appointed 27437
under section 3737.21 of the Revised Code. 27438

All employees, other than the fire marshal; the chief deputy 27439
fire marshal; the superintendent of the Ohio fire academy; the 27440
grants administrator; the fiscal officer; the executive secretary 27441
to the fire marshal; legal counsel; the pyrotechnics 27442
administrator, the chief of the forensic laboratory; the person 27443

appointed by the fire marshal to serve as administrator over 27444
functions concerning testing, license examinations, and the 27445
issuance of permits and certificates; and the chiefs of the 27446
bureaus of fire prevention, of fire and explosion investigation, 27447
and of code enforcement, ~~and of underground storage tanks~~ shall be 27448
in the classified civil service. The fire marshal shall authorize 27449
the chief deputy and other employees under the fire marshal's 27450
supervision to exercise powers granted to the fire marshal by law 27451
as may be necessary to carry out the duties of the fire marshal's 27452
office. 27453

(C) The fire marshal shall create, in and as a part of the 27454
office of fire marshal, a fire and explosion investigation bureau 27455
consisting of a chief of the bureau and additional assistant fire 27456
marshals as the fire marshal determines necessary for the 27457
efficient administration of the bureau. The chief shall be 27458
experienced in the investigation of the cause, origin, and 27459
circumstances of fires, and in administration, including the 27460
supervision of subordinates. The chief, among other duties 27461
delegated to the chief by the fire marshal, shall be responsible, 27462
under the direction of the fire marshal, for the investigation of 27463
the cause, origin, and circumstances of fires and explosions in 27464
the state, and for assistance in the prosecution of persons 27465
believed to be guilty of arson or a similar crime. 27466

(D)(1) The fire marshal shall create, as part of the office 27467
of fire marshal, a bureau of code enforcement consisting of a 27468
chief of the bureau and additional assistant fire marshals as the 27469
fire marshal determines necessary for the efficient administration 27470
of the bureau. The chief shall be qualified, by education or 27471
experience, in fire inspection, fire code development, fire code 27472
enforcement, or any other similar field determined by the fire 27473
marshal, and in administration, including the supervision of 27474
subordinates. The chief is responsible, under the direction of the 27475

fire marshal, for fire inspection, fire code development, fire 27476
code enforcement, and any other duties delegated to the chief by 27477
the fire marshal. 27478

(2) The fire marshal, the chief deputy fire marshal, the 27479
chief of the bureau of code enforcement, or any assistant fire 27480
marshal under the direction of the fire marshal, the chief deputy 27481
fire marshal, or the chief of the bureau of code enforcement may 27482
cause to be conducted the inspection of all buildings, structures, 27483
and other places, the condition of which may be dangerous from a 27484
fire safety standpoint to life or property, or to property 27485
adjacent to the buildings, structures, or other places. 27486

(E) The fire marshal shall create, as a part of the office of 27487
fire marshal, a bureau of fire prevention consisting of a chief of 27488
the bureau and additional assistant fire marshals as the fire 27489
marshal determines necessary for the efficient administration of 27490
the bureau. The chief shall be qualified, by education or 27491
experience, to promote programs for rural and urban fire 27492
prevention and protection. The chief, among other duties delegated 27493
to the chief by the fire marshal, is responsible, under the 27494
direction of the fire marshal, for the promotion of rural and 27495
urban fire prevention and protection through public information 27496
and education programs. 27497

(F) The fire marshal shall cooperate with the director of job 27498
and family services when the director adopts rules under section 27499
5104.052 of the Revised Code regarding fire prevention and fire 27500
safety in certified type B family day-care homes, as defined in 27501
section 5104.01 of the Revised Code, recommend procedures for 27502
inspecting type B homes to determine whether they are in 27503
compliance with those rules, and provide training and technical 27504
assistance to the director and county directors of job and family 27505
services on the procedures for determining compliance with those 27506
rules. 27507

(G) The fire marshal, upon request of a provider of child day-care in a type B home that is not certified by the county director of job and family services, as a precondition of approval by the state board of education under section 3313.813 of the Revised Code for receipt of United States department of agriculture child and adult care food program funds established under the "National School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, shall inspect the type B home to determine compliance with rules adopted under section 5104.052 of the Revised Code regarding fire prevention and fire safety in certified type B homes. In municipal corporations and in townships where there is a certified fire safety inspector, the inspections shall be made by that inspector under the supervision of the fire marshal, according to rules adopted under section 5104.052 of the Revised Code. In townships outside municipal corporations where there is no certified fire safety inspector, inspections shall be made by the fire marshal.

Sec. 3737.71. Each insurance company doing business in this state shall pay to the state in installments, at the time of making the payments required by section 5729.05 of the Revised Code, in addition to the taxes required to be paid by it, three-fourths of one per cent on the gross premium receipts derived from fire insurance and that portion of the premium reasonably allocable to insurance against the hazard of fire included in other coverages except life and sickness and accident insurance, after deducting return premiums paid and considerations received for reinsurances as shown by the annual statement of such company made pursuant to sections 3929.30, 3931.06, and 5729.02 of the Revised Code. The money received shall be paid into the state treasury to the credit of the state fire marshal's fund, which is hereby created. The fund shall be used for the maintenance and administration of the office of the fire marshal and the Ohio fire

academy established by section 3737.33 of the Revised Code. If the 27540
director of ~~commerce~~ public safety certifies to the director of 27541
budget and management that the cash balance in the state fire 27542
marshal's fund is in excess of the amount needed to pay ongoing 27543
operating expenses, the director may use the excess amount to 27544
acquire by purchase, lease, or otherwise, real property or 27545
interests in real property to be used for the benefit of the 27546
office of the state fire marshal, or to construct, acquire, 27547
enlarge, equip, furnish, or improve the fire marshal's office 27548
facilities or the facilities of the Ohio fire academy. The state 27549
fire marshal's fund shall be assessed a proportionate share of the 27550
administrative costs of the department of ~~commerce~~ public safety 27551
in accordance with procedures prescribed by the director of 27552
~~commerce~~ public safety and approved by the director of budget and 27553
management. Such assessment shall be paid from the state fire 27554
marshal's fund to the ~~division of administration fund~~ credit of 27555
the highway safety fund created by section 4501.06 of the Revised 27556
Code and shall be subject to appropriation solely for the expense 27557
of operation and maintenance of the department of public safety. 27558

Sec. 3737.81. (A) There is hereby created the state fire 27559
commission consisting of ten members to be appointed by the 27560
governor with the advice and consent of the senate. The fire 27561
marshal or chief deputy fire marshal, a representative designated 27562
by the department of public safety who has tenure in fire 27563
suppression, and a representative designated by the board of 27564
building standards shall be ex officio members. Of the initial 27565
appointments made to the commission, two shall be for a term 27566
ending one year after November 1, 1978, two shall be for a term 27567
ending two years after that date, two shall be for a term ending 27568
three years after that date, two shall be for a term ending four 27569
years after that date, and two shall be for a term ending five 27570
years after that date. Thereafter, terms of office shall be for 27571

five years, each term ending on the same day of the same month of 27572
the year as did the term which it succeeds. Each member shall hold 27573
office from the date of appointment until the end of the term for 27574
which the member was appointed. Any member appointed to fill a 27575
vacancy occurring prior to the expiration of the term for which 27576
the member's predecessor was appointed shall hold office for the 27577
remainder of that term. Any member shall continue in office 27578
subsequent to the expiration date of the member's term until a 27579
successor takes office, or until a period of sixty days has 27580
elapsed, whichever occurs first. Members shall be qualified by 27581
experience and training to deal with the matters that are the 27582
responsibility of the commission. Two members shall be members of 27583
paid fire services, one shall be a member of volunteer fire 27584
services, two shall be mayors, managers, or members of legislative 27585
authorities of municipal corporations, one shall represent 27586
commerce and industry, one shall be a representative of a fire 27587
insurance company domiciled in this state, one shall represent the 27588
flammable liquids industry, one shall represent the construction 27589
industry, and one shall represent the public. At no time shall 27590
more than six members be members of or associated with the same 27591
political party. Membership on the commission shall not constitute 27592
holding a public office, and no person shall forfeit or otherwise 27593
vacate the person's office or position of employment because of 27594
membership on the commission. 27595

(B) The ex officio members may not vote, except that the fire 27596
marshal or chief deputy fire marshal may vote in case of a tie. 27597

(C) Each member of the commission, other than ex officio 27598
members, shall be paid an amount ~~equal to that payable under pay~~ 27599
~~range 32 (S)(D)~~ fixed pursuant to division (J) of section 124.15 27600
of the Revised Code, and the member's actual and necessary 27601
expenses. 27602

(D) The commission shall select a chairperson and a 27603

vice-chairperson from among its members. No business may be 27604
transacted in the absence of a quorum. A quorum shall be at least 27605
six members, excluding ex officio members, and shall include 27606
either the chairperson or vice-chairperson. The commission shall 27607
hold regular meetings at least once every two months and may meet 27608
at any other time at the call of the chairperson. 27609

(E) The fire marshal shall provide the commission with office 27610
space, meeting rooms, staff, and clerical assistance necessary for 27611
the commission to perform its duties. If the commission maintains 27612
the Ohio fire service hall of fame under division (C) of section 27613
3737.03 of the Revised Code, the fire marshal shall preserve, in 27614
an appropriate manner, in the office space or meeting rooms 27615
provided to the commission under this division or in another 27616
location, copies of all official commendations awarded to 27617
individuals recognized and commemorated for their exemplary 27618
accomplishments and acts of heroism at fire-related incidents or 27619
similar events that occurred in this state. 27620

(F) If the commission maintains the Ohio fire service hall of 27621
fame under division (C) of section 3737.03 of the Revised Code, 27622
the expenses incurred for the recognition and commemoration of 27623
individuals for their exemplary accomplishments and acts of 27624
heroism at fire-related incidents or similar events that occurred 27625
in this state, including, but not limited to, expenses for 27626
official commendations and an annual awards ceremony as described 27627
in division (C) of section 3737.03 of the Revised Code, may be 27628
paid from moneys appropriated by the general assembly for purposes 27629
of that recognition and commemoration, from moneys that are 27630
available to the fire marshal under this chapter, or from other 27631
funding sources available to the commission. 27632

Sec. 3737.88. (A)(1) The ~~fire marshal~~ superintendent of 27633
industrial compliance shall have responsibility for implementation 27634

of the underground storage tank program and corrective action 27635
program for releases from underground petroleum storage tanks 27636
established by the "Resource Conservation and Recovery Act of 27637
1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended. To implement 27638
the program, the ~~fire marshal~~ superintendent may adopt, amend, and 27639
rescind such rules, conduct such inspections, require annual 27640
registration of underground storage tanks, issue such citations 27641
and orders to enforce those rules, and perform such other duties, 27642
as are consistent with those programs. The ~~fire marshal~~ 27643
superintendent, by rule, may delegate the authority to conduct 27644
inspections of underground storage tanks to certified fire safety 27645
inspectors. 27646

(2) In the place of any rules regarding release containment 27647
and release detection for underground storage tanks adopted under 27648
division (A)(1) of this section, the ~~fire marshal~~ superintendent, 27649
by rule, shall designate areas as being sensitive for the 27650
protection of human health and the environment and adopt 27651
alternative rules regarding release containment and release 27652
detection methods for new and upgraded underground storage tank 27653
systems located in those areas. In designating such areas, the 27654
~~fire marshal~~ superintendent shall take into consideration such 27655
factors as soil conditions, hydrogeology, water use, and the 27656
location of public and private water supplies. Not later than July 27657
11, 1990, the ~~fire marshal~~ superintendent shall file the rules 27658
required under this division with the secretary of state, director 27659
of the legislative service commission, and joint committee on 27660
agency rule review in accordance with divisions (B) and (H) of 27661
section 119.03 of the Revised Code. 27662

(B) Before adopting any rule under this section or section 27663
3737.881 or 3737.882 of the Revised Code, the ~~fire marshal~~ 27664
superintendent shall file written notice of ~~his~~ the proposed rule 27665
with the ~~chairman~~ chairperson of the ~~state fire commission~~ board 27666

of building standards, and, within sixty days after notice is 27667
filed, the ~~commission~~ board may file responses to or comments on 27668
and may recommend alternative or supplementary rules to the ~~fire~~ 27669
~~marshal~~ superintendent. At the end of the sixty-day period or upon 27670
the filing of responses, comments, or recommendations by the 27671
~~commission~~ board, the ~~fire-marshal~~ superintendent may adopt the 27672
rule filed with the ~~commission~~ board or any alternative or 27673
supplementary rule recommended by the ~~commission~~ board. 27674

(C) The ~~fire-commission~~ board may recommend courses of action 27675
to be taken by the ~~fire-marshal~~ superintendent in carrying out ~~his~~ 27676
the superintendent's duties under this section. The ~~commission~~ 27677
board shall file its recommendations in the office of the ~~fire~~ 27678
~~marshal~~ superintendent, and, within sixty days after the 27679
recommendations are filed, the ~~fire-marshal~~ superintendent shall 27680
file with the ~~chairman~~ chairperson of the ~~commission~~ his board the 27681
superintendent's comments on, and proposed action in response to, 27682
the recommendations. 27683

(D) For the purpose of sections 3737.87 to 3737.89 of the 27684
Revised Code, the ~~fire-marshal~~ superintendent shall adopt, and may 27685
amend and rescind, rules identifying or listing hazardous 27686
substances. The rules shall be consistent with and equivalent in 27687
scope, coverage, and content to regulations identifying or listing 27688
hazardous substances adopted under the "Comprehensive 27689
Environmental Response, Compensation, and Liability Act of 1980," 27690
94 Stat. 2779, 42 U.S.C.A. 9602, as amended, except that the ~~fire~~ 27691
~~marshal~~ superintendent shall not identify or list as a hazardous 27692
substance any hazardous waste identified or listed in rules 27693
adopted under division (A) of section 3734.12 of the Revised Code. 27694

(E) Notwithstanding any provision of the laws of this state 27695
to the contrary, the ~~fire-marshal~~ superintendent has exclusive 27696
jurisdiction to regulate the storage, treatment, and disposal of 27697
petroleum contaminated soil generated from corrective actions 27698

undertaken in response to releases of petroleum. The ~~fire marshal~~ 27699
superintendent may adopt, amend, or rescind such rules as ~~he~~ the 27700
superintendent considers to be necessary or appropriate to 27701
regulate the storage, treatment, or disposal of petroleum 27702
contaminated soil so generated. 27703

(F) The ~~fire marshal~~ superintendent shall adopt, amend, and 27704
rescind rules under sections 3737.88 to 3737.882 of the Revised 27705
Code in accordance with Chapter 119. of the Revised Code. 27706

Sec. 3737.881. (A) The ~~fire marshal~~ superintendent of 27707
industrial compliance shall certify underground storage tank 27708
systems installers who meet the standards for certification 27709
established in rules adopted under division (D)(1) of this 27710
section, pass the certification examination required by this 27711
division, and pay the certificate fee established in rules adopted 27712
under division (D)(5) of this section. Any individual who wishes 27713
to obtain certification as an installer shall apply to the ~~fire~~ 27714
~~marshal~~ superintendent on a form prescribed by the ~~fire marshal~~ 27715
superintendent. The application shall be accompanied by the 27716
application and examination fees established in rules adopted 27717
under division (D)(5) of this section. 27718

The ~~fire marshal~~ superintendent shall prescribe an 27719
examination designed to test the knowledge of applicants for 27720
certification as underground storage tank system installers in the 27721
installation, repair, abandonment, and removal of those systems. 27722
The examination shall also test the applicants' knowledge and 27723
understanding of the requirements and standards established in 27724
rules adopted under sections 3737.88 and 3737.882 of the Revised 27725
Code pertaining to the installation, repair, abandonment, and 27726
removal of those systems. 27727

Installer certifications issued under this division shall be 27728
renewed annually, upon submission of a certification renewal form 27729

prescribed by the ~~fire-marshal~~ superintendent, provision of proof 27730
of successful completion of continuing education requirements, and 27731
payment of the certification renewal fee established in rules 27732
adopted under division (D)(5) of this section. In addition, the 27733
~~fire-marshal~~ superintendent may from time to time prescribe an 27734
examination for certification renewal and may require applicants 27735
to pass the examination and pay the fee established for it in 27736
rules adopted under division (D)(5) of this section. 27737

The ~~fire-marshal~~ superintendent may, in accordance with 27738
Chapter 119. of the Revised Code, deny, suspend, revoke, or refuse 27739
to renew an installer's certification or renewal thereof ~~if he~~ 27740
~~finds~~ after finding that any of the following applies: 27741

(1) The applicant for certification or certificate holder 27742
fails to meet the standards for certification or renewal thereof 27743
under this section and rules adopted under it; 27744

(2) The certification was obtained through fraud or 27745
misrepresentation; 27746

(3) The certificate holder recklessly caused or permitted a 27747
person under ~~his~~ the certificate holder's supervision to install, 27748
perform major repairs on site to, abandon, or remove an 27749
underground storage tank system in violation of the performance 27750
standards set forth in rules adopted under section 3737.88 or 27751
3737.882 of the Revised Code. 27752

As used in division (A)(3) of this section, "recklessly" has 27753
the same meaning as in section 2901.22 of the Revised Code. 27754

(B) The ~~fire-marshal~~ superintendent shall certify persons who 27755
sponsor training programs for underground storage tank system 27756
installers who meet the criteria for certification established in 27757
rules adopted by the ~~fire-marshal~~ superintendent under division 27758
(D)(4) of this section and pay the certificate fee established in 27759
rules adopted under division (D)(5) of this section. Any person 27760

who wishes to obtain certification to sponsor such a training 27761
program shall apply to the ~~fire-marshal~~ superintendent on a form 27762
prescribed by ~~him~~ the superintendent. Training program 27763
certificates issued under this division shall expire annually. 27764
Upon submission of a certification renewal application form 27765
prescribed by the ~~fire-marshal~~ superintendent and payment of the 27766
application and certification renewal fees established in rules 27767
adopted under division (D)(5) of this section, the ~~fire-marshal~~ 27768
superintendent shall issue a training program renewal certificate 27769
to the applicant. 27770

The ~~fire-marshal~~ superintendent may, in accordance with 27771
Chapter 119. of the Revised Code, deny an application for, 27772
suspend, or revoke a training program certificate or renewal 27773
thereof ~~if he finds~~ after finding that the training program does 27774
not or will not meet the standards for certification established 27775
in rules adopted under division (D)(4) of this section. 27776

(C) The ~~fire-marshal~~ superintendent may conduct or cause to 27777
be conducted training programs for underground storage tank 27778
systems installers as ~~he~~ the superintendent considers to be 27779
necessary or appropriate. The ~~fire-marshal~~ superintendent is not 27780
subject to division (B) of this section with respect to training 27781
programs conducted by employees of the office of the ~~fire-marshal~~ 27782
superintendent. 27783

(D) The ~~fire-marshal~~ superintendent shall adopt, and may 27784
amend and rescind, rules doing all of the following: 27785

(1) Defining the activities that constitute supervision over 27786
the installation, performance of major repairs on site to, 27787
abandonment of, and removal of underground storage tank systems; 27788

(2) Establishing standards and procedures for certification 27789
of underground storage tank systems installers; 27790

(3) Establishing standards and procedures for continuing 27791

education for certification renewal;	27792
(4) Establishing standards and procedures for certification of training programs for installers;	27793 27794
(5) Establishing fees for applications for certifications under this section, the examinations prescribed under division (A) of this section, the issuance and renewal of certificates under divisions (A) and (B) of this section, and attendance at training programs conducted by the fire marshal <u>superintendent</u> under division (C) of this section. Fees received under this section shall be credited to the underground storage tank administration fund created in section 3737.02 of the Revised Code and shall be used to defray the costs of implementing, administering, and enforcing this section and the rules adopted thereunder, conducting training sessions, and facilitating prevention of releases.	27795 27796 27797 27798 27799 27800 27801 27802 27803 27804 27805 27806
(6) That are necessary or appropriate for the implementation, administration, and enforcement of this section.	27807 27808
(E) Nothing in this section or the rules adopted under it prohibits an owner or operator of an underground storage tank system from installing, making major repairs on site to, abandoning, or removing an underground storage tank system under the supervision of an installer certified under division (A) of this section who is a full-time or part-time employee of the owner or operator.	27809 27810 27811 27812 27813 27814 27815
(F) On and after the date one hundred eighty days after the effective date of this section <u>January 7, 1990</u> , no person shall do any of the following:	27816 27817 27818
(1) Install, make major repairs on site to, abandon, or remove an underground storage tank system unless the activity is performed under the supervision of a qualified individual who holds a valid installer certificate issued under division (A) of	27819 27820 27821 27822

this section; 27823

(2) Act in the capacity of providing supervision for the 27824
installation of, performance of major repairs on site to, 27825
abandonment of, or removal of an underground storage tank system 27826
unless the person holds a valid installer certificate issued under 27827
division (A) of this section; 27828

(3) Except as provided in division (C) of this section, 27829
sponsor a training program for underground storage tank systems 27830
installers unless the person holds a valid training program 27831
certificate issued under division (B) of this section. 27832

Sec. 3737.882. (A) If, after an examination or inspection, 27833
the ~~fire marshal~~ superintendent of industrial compliance or ~~an~~ the 27834
superintendent's assistant ~~fire marshal~~ finds that a release of 27835
petroleum is suspected, the ~~fire marshal~~ superintendent shall take 27836
such action as the ~~fire marshal~~ superintendent considers necessary 27837
to ensure that a suspected release is confirmed or disproved and, 27838
if the occurrence of a release is confirmed, to correct the 27839
release. These actions may include one or more of the following: 27840

(1) Issuance of a citation and order requiring the 27841
responsible person to undertake, in a manner consistent with the 27842
requirements of section 9003 of the "Resource Conservation and 27843
Recovery Act of 1976," 98 Stat. 3279, 42 U.S.C.A. 6991b, as 27844
amended, applicable regulations adopted thereunder, and rules 27845
adopted under division (B) of this section, such actions as are 27846
necessary to protect human health and the environment, including, 27847
without limitation, the investigation of a suspected release. 27848

(2) Requesting the attorney general to bring a civil action 27849
for appropriate relief, including a temporary restraining order or 27850
preliminary or permanent injunction, in the court of common pleas 27851
of the county in which a suspected release is located or in which 27852
the release occurred, to obtain the corrective action necessary to 27853

protect human health and the environment. In granting any such relief, the court shall ensure that the terms of the temporary restraining order or injunction are sufficient to provide comprehensive corrective action to protect human health and the environment.

(3) Entry onto premises and undertaking corrective action with respect to a release of petroleum if, in the ~~fire marshal's~~ superintendent's judgment, such action is necessary to protect human health and the environment. Any corrective action undertaken by the ~~fire marshal~~ superintendent or the superintendent's assistant ~~fire marshal~~ under division (A)(3) of this section shall be consistent with the requirements of sections 9003 and 9005 of the "Resource Conservation and Recovery Act of 1976," 98 Stat. 3279, 42 U.S.C.A. 6991b, and 98 Stat. 3284, 42 U.S.C.A. 6991e, respectively, as amended, applicable regulations adopted thereunder, and rules adopted under division (B) of this section.

(B) The ~~fire marshal~~ superintendent shall adopt, and may amend and rescind, such rules as the ~~fire marshal~~ superintendent considers necessary to establish standards for corrective actions for suspected and confirmed releases of petroleum and standards for the recovery of costs incurred for undertaking corrective or enforcement actions with respect to such releases. The rules also shall include requirements for financial responsibility for the cost of corrective actions for and compensation of bodily injury and property damage incurred by third parties that are caused by releases of petroleum. Rules regarding financial responsibility shall, without limitation, require responsible persons to provide evidence that the parties guaranteeing payment of the deductible amount established under division (E) or (F) of section 3737.91 of the Revised Code are, at a minimum, secondarily liable for all corrective action and third-party liability costs incurred within the scope of the deductible amount. The rules shall be consistent

with sections 9003 and 9005 of the "Resource Conservation and 27886
Recovery Act of 1976," 98 Stat. 3279, 42 U.S.C.A. 6991b, and 98 27887
Stat. 3284, 42 U.S.C.A. 6991e, respectively, as amended, and 27888
applicable regulations adopted thereunder. 27889

(C)(1) No person shall violate or fail to comply with a rule 27890
adopted under division (A) of section 3737.88 of the Revised Code 27891
or division (B) of this section, and no person shall violate or 27892
fail to comply with the terms of any order issued under division 27893
(A) of section 3737.88 of the Revised Code or division (A)(1) of 27894
this section. 27895

(2) Whoever violates division (C)(1) of this section or 27896
division (F) of section 3737.881 of the Revised Code shall pay a 27897
civil penalty of not more than ten thousand dollars for each day 27898
that the violation continues. The ~~fire marshal~~ superintendent may, 27899
by order, assess a civil penalty under this division, or the ~~fire~~ 27900
~~marshal~~ superintendent may request the attorney general to bring a 27901
civil action for imposition of the civil penalty in the court of 27902
common pleas of the county in which the violation occurred. If the 27903
~~fire marshal~~ superintendent determines that a responsible person 27904
is in violation of division (C)(1) of this section or division (F) 27905
of section 3737.881 of the Revised Code, the ~~fire marshal~~ 27906
superintendent may request the attorney general to bring a civil 27907
action for appropriate relief, including a temporary restraining 27908
order or preliminary or permanent injunction, in the court of 27909
common pleas of the county in which the underground storage tank 27910
or, in the case of a violation of division (F)(3) of section 27911
3737.881 of the Revised Code, the training program that is the 27912
subject of the violation is located. The court shall issue a 27913
temporary restraining order or an injunction upon a demonstration 27914
that a violation of division (C)(1) of this section or division 27915
(F) of section 3737.881 of the Revised Code has occurred or is 27916
occurring. 27917

Any action brought by the attorney general under this 27918
division is a civil action, governed by the Rules of Civil 27919
Procedure and other rules of practice and procedure applicable to 27920
civil actions. 27921

(D) Orders issued under division (A) of section 3737.88 of 27922
the Revised Code and divisions (A)(1) and (C) of this section, and 27923
appeals thereof, are subject to and governed by Chapter 3745. of 27924
the Revised Code. Such orders shall be issued without the 27925
necessity for issuance of a proposed action under that chapter. 27926
For purposes of appeals of any such orders, the term "director" as 27927
used in Chapter 3745. of the Revised Code includes the ~~fire~~ 27928
~~marshal~~ superintendent and ~~an~~ the superintendent's assistant ~~fire~~ 27929
~~marshal~~. 27930

(E) Any restrictions on the use of real property for the 27931
purpose of achieving applicable standards pursuant to rules 27932
adopted under division (B) of this section shall be contained in a 27933
deed or in another instrument that is signed and acknowledged by 27934
the property owner in the same manner as a deed. The deed or other 27935
instrument containing the restrictions shall be filed and recorded 27936
in the office of the county recorder of the county in which the 27937
property is located. Pursuant to Chapter 5309. of the Revised 27938
Code, such use restrictions in connection with registered land, as 27939
defined in section 5309.01 of the Revised Code, shall be entered 27940
as a memorial on the page of the register where the title of the 27941
owner is registered. 27942

Sec. 3737.883. On receipt of a notice pursuant to section 27943
3123.43 of the Revised Code, the ~~state fire marshal~~ superintendent 27944
of industrial compliance shall comply with sections 3123.41 to 27945
3123.50 of the Revised Code and any applicable rules adopted under 27946
section 3123.63 of the Revised Code with respect to a certificate 27947
issued pursuant to section 3737.34, 3737.65, 3737.83, or 3737.881 27948

of the Revised Code. 27949

Sec. 3737.89. (A) Except when a responsible person can prove 27950
that a release of petroleum was caused solely by any one or a 27951
combination of an act of God, an act of war, or an act or omission 27952
of a third party without regard to whether any such act or 27953
omission was or was not negligent, a responsible person, 27954
notwithstanding any other provision of the Revised Code or common 27955
law of this state, is strictly liable to the state for any costs 27956
incurred for any corrective or enforcement action undertaken by 27957
the ~~fire-marshal~~ superintendent of industrial compliance under 27958
section 3737.882 of the Revised Code and for any costs incurred 27959
for any enforcement action undertaken by the attorney general 27960
under this section or section 3737.882 of the Revised Code with 27961
respect to a release of petroleum. 27962

The attorney general, upon the request of the ~~fire-marshal~~ 27963
superintendent, shall bring a civil action to recover those costs 27964
in the court of common pleas of the county in which the corrective 27965
or enforcement action was undertaken. 27966

(B) If a responsible person alleges that a release of 27967
petroleum was caused solely by an act or omission of a third party 27968
or was caused solely by such an act or omission in combination 27969
with an act of God or an act of war, the responsible person shall 27970
pay to the state the cost of any corrective or enforcement action 27971
undertaken by the ~~fire-marshal~~ superintendent under section 27972
3737.882 of the Revised Code and any enforcement action undertaken 27973
by the attorney general under this section or section 3737.882 of 27974
the Revised Code with respect to the release and is entitled by 27975
subrogation to all rights of the state to recover those costs from 27976
the third party under division (C) of this section. The attorney 27977
general, upon the request of the ~~fire-marshal~~ superintendent, 27978
shall bring a civil action to recover payment from the responsible 27979

party for those costs in the court of common pleas of the county 27980
in which the corrective or enforcement action was undertaken. 27981

(C) If the responsible person proves that a release of 27982
petroleum was caused solely by an act or omission of a third party 27983
or by such an act or omission in combination with an act of God or 27984
an act of war, the third party, notwithstanding any other 27985
provision of the Revised Code or common law of this state, is 27986
strictly liable to the state for any costs incurred for any 27987
corrective or enforcement action undertaken by the ~~fire marshal~~ 27988
superintendent under section 3737.882 of the Revised Code and for 27989
any enforcement action undertaken by the attorney general under 27990
this section or section 3737.882 of the Revised Code with respect 27991
to the release. The attorney general, upon the request of the ~~fire~~ 27992
~~marshal~~ superintendent or any person entitled by subrogation to 27993
the rights of the state under division (B) of this section, may 27994
bring a civil action to recover those costs in the court of common 27995
pleas of the county in which the corrective or enforcement action 27996
was undertaken. 27997

(D) No indemnification, hold harmless, or similar agreement 27998
or conveyance shall be effective to transfer from the responsible 27999
person, or from any other person who may be liable under division 28000
(C) of this section, to another person the liability imposed by 28001
this section. Nothing in this division bars either of the 28002
following: 28003

(1) Any agreement to insure, hold harmless, or indemnify a 28004
party to such an agreement for any liability under this section; 28005

(2) A cause of action that any person has or would have 28006
against any other person by reason of subrogation or otherwise. 28007

(E) Nothing in this section limits the duty of a responsible 28008
person under section 3737.882 of the Revised Code and rules 28009
adopted under it to notify the fire marshal and to take action 28010

with respect to a release of petroleum. 28011

(F) Nothing in this section limits the right of the federal 28012
government to recover from the responsible person any federal 28013
money expended for any corrective or enforcement action as a 28014
result of a release of petroleum. 28015

Sec. 3737.91. (A) There is hereby created the petroleum 28016
underground storage tank financial assurance fund, which shall be 28017
in the custody of the treasurer of state, but is not a part of the 28018
state treasury. The fund shall consist of moneys from the 28019
following sources: 28020

(1) All fees collected under divisions (B) and (F) of this 28021
section and all supplemental fees collected under division (C) of 28022
this section; 28023

(2) Interest earned on moneys in the fund; 28024

(3) Appropriations to the fund from the general revenue fund; 28025

(4) The proceeds of revenue bonds issued under sections 28026
3737.90 to 3737.948 of the Revised Code, provided that upon 28027
resolution of the petroleum underground storage tank release 28028
compensation board created in section 3737.90 of the Revised Code, 28029
all or part of those proceeds may be deposited into a separate 28030
account of the fund. Chapters 131. and 135. of the Revised Code do 28031
not apply to the establishment, deposit, investment, application, 28032
and safeguard of any such account and moneys in any such account. 28033

(B) For the purposes of paying the costs of implementing and 28034
administering this section and sections 3737.90 and 3737.92 of the 28035
Revised Code and rules adopted under them; payment or 28036
reimbursement of corrective action costs under section 3737.92 of 28037
the Revised Code; compensating third parties for bodily injury or 28038
property damage under that section; and payment of principal and 28039
interest on revenue bonds issued under sections 3737.90 to 28040

3737.948 of the Revised Code to raise capital for the fund, there 28041
is hereby assessed an annual petroleum underground storage tank 28042
financial assurance fee on each tank comprising an underground 28043
storage tank or an underground storage tank system that contains 28044
or has contained petroleum and for which a responsible person is 28045
required to demonstrate financial responsibility by rules adopted 28046
by the ~~fire marshal~~ superintendent of industrial compliance under 28047
division (B) of section 3737.882 of the Revised Code. The fee 28048
assessed by this division shall be paid to the board by a 28049
responsible person for each tank that is subject to the fee. The 28050
fee shall be paid not later than the first day of July of each 28051
year, except that in 1989 the fee shall be paid by either the 28052
first day of September or ninety days after July 11, 1989, 28053
whichever is later. The fee is in addition to any fee established 28054
by the ~~fire marshal~~ superintendent under section 3737.88 of the 28055
Revised Code. 28056

The amount of the annual fee due in 1989 and 1990 is one 28057
hundred fifty dollars per tank per year. In 1991 and subsequent 28058
years the board shall establish the amount of the annual fee in 28059
accordance with this division. Not later than the first day of 28060
April of 1991 and each subsequent year, the board, in consultation 28061
with the administrative agent of the fund with whom the board has 28062
entered into a contract under division (B)(3) of section 3737.90 28063
of the Revised Code, if any, shall determine the amount of the 28064
annual fee to be assessed in that year and shall adopt rules in 28065
accordance with Chapter 119. of the Revised Code to establish the 28066
fee at that amount. The fee shall be established at an amount 28067
calculated to maintain the continued financial soundness of the 28068
fund, provided that if the unobligated balance of the fund exceeds 28069
forty-five million dollars on the date that an annual 28070
determination is made, the board may assess a fee in the year to 28071
which the determination applies only to the extent required in or 28072
by, or necessary to comply with covenants or other requirements 28073

in, revenue bonds issued under sections 3737.90 to 3737.948 of the Revised Code or in proceedings or other covenants or agreements related to such bonds. Not later than the first day of May of 1991 and each subsequent year, the board shall notify each responsible person by certified mail of the amount of the annual fee per tank due in that year. As used in this paragraph, "proceedings" has the same meaning as in section 133.01 of the Revised Code.

If a responsible person is both the owner and operator of a tank, the responsible person shall pay any annual fee assessed under this division in compliance with this division and the rules adopted thereunder. If the owner of the tank and the operator of the tank are not the same person, any annual fee assessed under this division in compliance with this division and the rules adopted thereunder shall be paid by one of the responsible persons; however, all such responsible persons are liable for noncompliance with this division.

(C) As necessary to maintain the financial soundness of the fund, the board, by rules adopted in accordance with Chapter 119. of the Revised Code, may at any time assess a supplemental petroleum underground storage tank financial assurance fee on tanks subject to the fee assessed under division (B) or (F) of this section in any fiscal year in which the board finds that the unobligated balance in the fund is less than fifteen million dollars. The board, in consultation with the fund's administrative agent, if any, shall establish the amount of the supplemental fee at an amount that will ensure an unobligated balance in the fund of at least fifteen million dollars at the end of the fiscal year in which the supplemental fee is assessed. Not less than thirty days before the date on which payment of the supplemental fee is due under the board's rules, the board shall notify each responsible person by certified mail of the amount of the supplemental fee and the date on which payment of the supplemental

fee to the board is due. 28106

If a responsible person is both the owner and operator of a 28107
tank, the responsible person shall pay any supplemental fee 28108
assessed under this division in compliance with this division and 28109
the rules adopted thereunder. If the owner of the tank and the 28110
operator of the tank are not the same person, any supplemental fee 28111
assessed under this division in compliance with this division and 28112
the rules adopted thereunder shall be paid by one of the 28113
responsible persons; however, all such responsible persons are 28114
liable for noncompliance with this division. 28115

(D)(1) The board shall issue a certificate of coverage to any 28116
responsible person who has complied with all of the following: 28117

(a) Paid the fee assessed under division (B) or (F) of this 28118
section; 28119

(b) Demonstrated to the board financial responsibility in 28120
compliance with the rules adopted by the ~~fire marshal~~ 28121
superintendent under division (B) of section 3737.882 of the 28122
Revised Code for the deductible amount established under division 28123
(E) of this section or, when appropriate, the reduced deductible 28124
amount established under division (F) of this section. If the 28125
responsible person utilizes self-insurance as a financial 28126
responsibility mechanism, the responsible person shall provide the 28127
board with an affidavit in which the responsible party certifies 28128
that all documentation submitted to the board is true and 28129
accurate; 28130

(c) Certified to the board that for each petroleum 28131
underground storage tank system for which a certificate of 28132
coverage is sought, the responsible person is in compliance with 28133
applicable rules for petroleum underground storage tank systems 28134
that have been adopted by the ~~fire marshal~~ superintendent under 28135
section 3737.88 of the Revised Code. 28136

The certificate of coverage shall state the amount of 28137
coverage to which the responsible person is entitled from the fund 28138
pursuant to division (D)(3) of this section and the time period 28139
for which the certificate provides that coverage. An issued 28140
certificate of coverage is subject to the condition that the 28141
holder timely pay any supplemental fee assessed under division (C) 28142
of this section during the time that the certificate is in effect. 28143

(2) The board shall not issue a certificate of coverage to 28144
any responsible person who fails to comply with divisions 28145
(D)(1)(a), (b), and (c) of this section. 28146

(3) The maximum disbursement from the fund for any single 28147
release of petroleum is the difference between the deductible 28148
amount established under division (E) of this section or, when 28149
appropriate, the reduced deductible amount established under 28150
division (F) of this section and one million dollars. The maximum 28151
disbursement from the fund during any fiscal year on behalf of any 28152
responsible person shall not exceed in the aggregate one million 28153
dollars less the deductible amount if the responsible person owns 28154
or operates not more than one hundred tanks comprising underground 28155
petroleum storage tanks or underground petroleum storage tank 28156
systems, shall not exceed in the aggregate two million dollars 28157
less the deductible amount if the responsible person owns or 28158
operates not more than two hundred such tanks, shall not exceed in 28159
the aggregate three million dollars less the deductible amount if 28160
the responsible person owns or operates not more than three 28161
hundred such tanks, and shall not exceed in the aggregate four 28162
million dollars less the deductible amount if the responsible 28163
person owns or operates more than three hundred such tanks. The 28164
maximum disbursement from the fund for any single release or for 28165
any fiscal year under this division does not in any manner limit 28166
the liability of a responsible person for a release of petroleum. 28167

(E)(1) Except as otherwise provided in division (F) of this 28168

section, no responsible person is eligible to receive moneys from 28169
the fund under section 3737.92 of the Revised Code until the 28170
responsible person demonstrates to the board financial 28171
responsibility for the first fifty thousand dollars of the cost 28172
for corrective action for, and compensating third parties for 28173
bodily injury and property damage caused by, accidental releases 28174
of petroleum from an underground storage tank owned or operated by 28175
the responsible party. The fifty thousand dollar amount is the 28176
deductible amount for the purposes of this section and section 28177
3737.92 of the Revised Code. 28178

(2) The board, in consultation with the fund's administrative 28179
agent, if any, may, by rules adopted in accordance with Chapter 28180
119. of the Revised Code, establish for any fiscal year a 28181
deductible amount that differs from fifty thousand dollars. The 28182
deductible amount established by the board shall be such an amount 28183
as to maintain the financial soundness of the fund. Any action of 28184
the board to establish a differing deductible amount or to alter a 28185
deductible amount previously established by it shall be taken 28186
concurrently with the establishment under division (B) of this 28187
section of the annual fee due on the first day of the fiscal year 28188
in which the deductible amount will apply. If the deductible 28189
amount established under this division differs from that in effect 28190
at the time of the board's action, the board shall notify each 28191
responsible person of the change by certified mail not later than 28192
the first day of May preceding the effective date of the change. 28193

(F)(1) Any responsible person owning, or owning or operating, 28194
a total of six or fewer petroleum underground storage tanks may 28195
elect in calendar years 1989 and 1990 to pay twice the amount of 28196
the per tank annual fee for each tank assessed under division (B) 28197
of this section in order to reduce the amount of the deductible 28198
established in division (E) of this section to the total amount of 28199
ten thousand dollars. The election shall be available only at the 28200

time of the payment of the annual fee and any supplemental fee. 28201
The election shall not be retroactively applied. 28202

(2) Any responsible person owning, or owning or operating, a 28203
total of six or fewer petroleum underground storage tanks may 28204
elect in calendar year 1991 and in each subsequent year to pay an 28205
additional fee at an amount established by the board in addition 28206
to the per tank annual fee assessed under division (B) of this 28207
section in order to reduce the deductible amount established under 28208
division (E) of this section. In calendar year 1991 and in each 28209
subsequent year, the board shall establish the amount of the 28210
additional fee and the reduced deductible amount. In determining 28211
the amount of the additional fee and the reduced deductible 28212
amount, the board shall take into consideration the effect of the 28213
additional claims paid under section 3737.92 of the Revised Code 28214
to responsible persons making an election under division (F)(2) of 28215
this section and balance that consideration with such factors as 28216
the availability of liability insurance, the difficulty of proving 28217
financial responsibility pursuant to the rules adopted by the ~~fire~~ 28218
~~marshal~~ superintendent under division (B) of section 3737.882 of 28219
the Revised Code, and the hardship created on small owners and 28220
operators of petroleum underground storage tanks by an increase in 28221
either the additional fee or the reduced deductible amount. 28222

(3) Any responsible person owning, or owning or operating, a 28223
total of six or fewer petroleum underground storage tanks who 28224
elects to pay the additional fee under divisions (F)(1) and (2) of 28225
this section shall pay any per tank supplemental fee assessed 28226
under division (C) of this section. 28227

(G) If the director of the fund determines that a responsible 28228
person has failed to comply with division (B), (C), or (F) of this 28229
section, the director of the fund shall notify each responsible 28230
person for the petroleum underground storage tank of the 28231
noncompliance. If, within thirty days after the notification, the 28232

responsible person fails to pay the applicable fee or any fee 28233
previously assessed upon the responsible person under this 28234
section, the director of the fund shall issue an order requiring 28235
the responsible person to pay all of the fees the responsible 28236
person owes to the fund and an additional late payment fee in the 28237
amount of one thousand dollars to the fund. 28238

If a responsible person fails to comply with any order of the 28239
director of the fund within thirty days after the issuance of the 28240
order, the director shall notify the ~~fire marshal~~ superintendent 28241
of that noncompliance. Upon the request of the director of the 28242
fund, the attorney general may bring a civil action for 28243
appropriate relief, including a temporary restraining order or 28244
preliminary or permanent injunction, in the court of common pleas 28245
of the county in which the petroleum underground storage tank that 28246
is the subject of the order is located. The court shall issue an 28247
injunction upon a demonstration that a failure to comply with the 28248
director's order has occurred or is occurring. 28249

Any orders issued by the director of the fund under this 28250
division may be appealed by the responsible person under division 28251
(F) of section 3737.92 of the Revised Code. For the purpose of an 28252
appeal of any order of the director of the fund, "determination" 28253
as used in that division includes any order of the director of the 28254
fund. The filing of a notice of appeal under this division does 28255
not operate as a stay of any order of the director of the fund. 28256

Sec. 3737.92. (A) The petroleum underground storage tank 28257
release compensation board created in section 3737.90 of the 28258
Revised Code shall use moneys in the petroleum underground storage 28259
tank financial assurance fund established in section 3737.91 of 28260
the Revised Code exclusively for the following purposes: 28261

- (1) Payment of the expenses of administering the fund; 28262
- (2) Payment of the administrative expenses of the board; 28263

(3) Payment to or reimbursement of responsible persons for 28264
the necessary cost of corrective action for and compensating third 28265
parties for bodily injury and property damage caused by accidental 28266
releases of petroleum in accordance with this section, provided 28267
that proceeds from the issuance of revenue bonds under sections 28268
3737.90 to 3737.948 of the Revised Code may only be used for the 28269
payment to or reimbursement of responsible persons for the 28270
necessary costs of corrective action for improving property 28271
damaged by accidental releases of petroleum in accordance with 28272
this section; 28273

(4) Deposit into any funds provided for in a resolution or 28274
resolutions of the board in connection with any revenue bonds 28275
issued under sections 3737.90 to 3737.948 of the Revised Code; 28276

(5) Placement of petroleum underground storage tank linked 28277
deposits under sections 3737.95 to 3737.98 of the Revised Code. 28278

(B) A responsible person seeking to obtain from the fund 28279
payment of or reimbursement for corrective action costs for an 28280
accidental release of petroleum shall submit a claim to the board 28281
in accordance with and containing the information required by 28282
rules adopted by the board in accordance with Chapter 119. of the 28283
Revised Code. Before authorizing any disbursement from the fund to 28284
pay all or any portion of a claim submitted under this division, 28285
the director of the fund shall first determine that the claim 28286
meets all of the following criteria: 28287

(1) The responsible person is eligible under division (D) of 28288
this section to receive payment of or reimbursement for the 28289
corrective action costs from the fund; 28290

(2) The corrective action performed or to be performed has 28291
been authorized by the ~~fire marshal~~ superintendent of industrial 28292
compliance under section 3737.882 of the Revised Code and rules 28293
adopted under that section; 28294

(3) The costs of performing the corrective action are 28295
necessary to comply with the rules of the ~~fire marshal~~ 28296
superintendent adopted under sections 3737.88 and 3737.882 of the 28297
Revised Code governing corrective actions. 28298

(C) A responsible person seeking to obtain from the fund 28299
payment of or reimbursement for compensation paid or to be paid to 28300
third parties for bodily injury or property damage caused by an 28301
accidental release of petroleum shall submit a claim to the board 28302
in accordance with and containing the information required by 28303
rules adopted by the board in accordance with Chapter 119. of the 28304
Revised Code. Before authorizing any disbursement from the fund to 28305
pay all or any portion of a claim submitted under this division, 28306
the director of the fund shall first determine that the claim 28307
meets both of the following criteria: 28308

(1) The responsible person who submitted the claim is 28309
eligible under division (D) of this section to receive payment of 28310
or reimbursement for the third-party compensation from the fund; 28311

(2) There is a legally enforceable judgment against the 28312
responsible person for bodily injury or property damage to one or 28313
more third parties resulting from the release in the amount stated 28314
in the claim, or, if there is a settlement with a third party as a 28315
result of the release, the amount of the settlement stated in the 28316
claim is reasonable. 28317

(D) A responsible person is not eligible to receive payment 28318
or reimbursement from the fund under division (B) or (C) of this 28319
section unless all of the following conditions are met: 28320

(1) At the time that the release was first suspected or 28321
confirmed, a responsible person possessed a valid certificate of 28322
coverage issued by the board under division (D) of section 3737.91 28323
of the Revised Code for the petroleum underground storage tank 28324
system from which the release occurred; 28325

- (2) One of the following applies: 28326
- (a) The petroleum underground storage tank system from which 28327
the release occurred was registered in compliance with rules 28328
adopted by the ~~fire marshal~~ superintendent under section 3737.88 28329
of the Revised Code when the occurrence of the release was first 28330
suspected or confirmed; 28331
- (b) The ~~fire marshal~~ superintendent has recommended that 28332
payment or reimbursement be made because good cause existed for 28333
the responsible person's failure to have so registered the 28334
petroleum underground storage tank system, and the responsible 28335
person has registered the petroleum underground storage tank 28336
system with the ~~fire marshal~~ superintendent and paid all back 28337
registration fees payable under those rules for registration of 28338
the system from the time the responsible person should have, but 28339
failed to register the system. 28340
- (3) The ~~fire marshal~~ superintendent has determined that, when 28341
the claim was filed, a responsible person was in compliance with 28342
all orders issued under sections 3737.88 and 3737.882 of the 28343
Revised Code regarding the petroleum underground storage tank 28344
system from which the release occurred; 28345
- (4) A responsible person demonstrates financial 28346
responsibility for the deductible amount applicable under section 28347
3737.91 of the Revised Code for the petroleum underground storage 28348
tank system from which the release has occurred; 28349
- (5) The responsible person has not falsified any attestation 28350
contained on a registration application required by rules adopted 28351
under section 3737.88 of the Revised Code; 28352
- (6) The petroleum underground storage tank system from which 28353
the release occurred was in compliance with rules, other than 28354
rules regarding registration, adopted by the ~~fire marshal~~ 28355
superintendent under section 3737.88 of the Revised Code when the 28356

occurrence of the release was first suspected or confirmed. 28357

(E) The director of the fund may make a determination to 28358
approve or disapprove a claim and to authorize a disbursement from 28359
the fund for payment of an approved claim administratively without 28360
a hearing. If the director of the fund makes a determination 28361
regarding a claim that is inconsistent with a recommendation or 28362
determination of the ~~fire-marshal~~ superintendent for purposes of 28363
division (B)(2) or (3) or (D)(2), (3), or (5) of this section, the 28364
director shall detail those inconsistencies in a written finding 28365
of fact before authorizing any disbursement from the fund for 28366
payment of the claim. Upon making a determination of a claim under 28367
this section, the director of the fund shall provide written 28368
notice of the determination and a copy of any written finding of 28369
fact accompanying the determination to the responsible person who 28370
submitted the claim and to the ~~fire-marshal~~ superintendent. 28371

(F) If the responsible person who submitted a claim under 28372
this section or the ~~fire-marshal~~ superintendent objects to the 28373
determination of the claim made by the director of the fund and 28374
files an objection to the determination with the board within 28375
thirty days after the mailing of the notification of the 28376
determination and finding of fact, if any, the board shall appoint 28377
a referee to conduct an adjudication hearing on the determination. 28378
The adjudication hearing shall be conducted in accordance with 28379
section 119.09 of the Revised Code. For the purposes of 28380
adjudication hearings on determinations of the director of the 28381
fund, the term "agency" as used in that section includes the 28382
board. 28383

If any party is aggrieved by an order of the board made after 28384
the adjudication hearing on the determination, the party may 28385
appeal the order in accordance with section 119.12 of the Revised 28386
Code. For the purposes of appeals of any such orders, the ~~terms~~ 28387
~~"fire-marshal"~~ and term "building" as used in that section ~~include~~ 28388

~~the board and~~ includes the petroleum underground storage tank,
respectively. 28389
28390

(G) Neither the state, the board, nor the director of the 28391
fund is liable to any responsible person to pay the cost of any 28392
corrective action or of third party compensation for a release of 28393
petroleum when the fund is depeleted of moneys because the amount 28394
of the claims made on the fund exceeds the unobligated balance in 28395
the fund. However, upon assessing and collecting a supplemental 28396
fee under division (C) of section 3737.91 of the Revised Code, the 28397
board shall again consider the claim of a responsible person whose 28398
claim was not initially honored because of the insufficiency of 28399
unobligated balances in the fund to pay that person's claim. 28400

The inability of a responsible person to obtain money from 28401
the fund does not in any manner limit the liability of a 28402
responsible person for a release of petroleum. 28403

(H) Neither the right to apply for payment or reimbursement 28404
nor the receipt of payment or reimbursement under this section 28405
limits the liability of any responsible person to the state for 28406
the payment of any corrective action or enforcement costs under 28407
sections 3737.882 and 3737.89 of the Revised Code, or to any third 28408
party for bodily injury or property damage, resulting from a 28409
release of petroleum from an underground storage tank system owned 28410
or operated by the responsible person. Neither the right to apply 28411
for payment or reimbursement under this section nor any delay by 28412
the board or director of the fund in acting upon any claim for any 28413
such payment or reimbursement limits or postpones the duty of any 28414
responsible person to comply with any order of the ~~fire marshal~~ 28415
superintendent issued under section 3737.88 or 3737.882 of the 28416
Revised Code. 28417

(I) The board, upon payment to or reimbursement of a 28418
responsible person from the fund for corrective action costs or 28419
the cost of compensation to third parties for bodily injury or 28420

property damage, is entitled by subrogation to all rights of the 28421
responsible person to recover those costs from any other person. 28422
The attorney general, upon the request of the board, may bring a 28423
civil action to recover those costs in the court of common pleas 28424
of the county in which the release of petroleum occurred. 28425

(J) Nothing in this section limits the right of the federal 28426
government to recover from the responsible person any federal 28427
money expended for any corrective or enforcement action as a 28428
result of a release of petroleum. 28429

(K) If the responsible person described in division (D) of 28430
this section is a state agency, any payments or reimbursements 28431
received by the state agency under this section shall be deposited 28432
into the fund from which the expenditures for the corrective 28433
action or third party compensation originally were made. 28434

Sec. 3737.98. (A) Upon placement of a petroleum underground 28435
storage tank linked deposit with an eligible lending institution, 28436
the institution shall lend the funds to each approved eligible 28437
owner listed in the petroleum underground storage tank linked 28438
deposit loan package required by division (D) of section 3737.96 28439
of the Revised Code and in accordance with the linked deposit 28440
agreement required by division (C) of section 3737.97 of the 28441
Revised Code. The loan shall be at a rate below the present 28442
borrowing rate determined in the agreement with the petroleum 28443
underground storage tank release compensation board applicable to 28444
each eligible owner. A certificate of compliance with this 28445
section, in the form and manner prescribed by the board, shall be 28446
required for the eligible lending institution. The borrowing rate 28447
set by the agreement shall be uniform and may not be revised 28448
during the period of the deposit. 28449

(B) The board shall take any and all steps necessary to 28450
implement the petroleum underground storage tank linked deposit 28451

program and to monitor the compliance of eligible lending 28452
institutions and eligible owners, including the development of 28453
guidelines for those purposes as necessary. 28454

(C) The board and the ~~fire marshal~~ superintendent of 28455
industrial compliance shall notify owners of petroleum underground 28456
storage tanks of the linked deposit program and its eligibility 28457
requirements. Annually, on or before the first day of February, 28458
the board shall report on the petroleum underground storage tank 28459
linked deposit program for the preceding calendar year to the 28460
governor, speaker of the house of representatives, and president 28461
of the senate. The speaker of the house of representatives and 28462
president of the senate shall transmit copies of the report to the 28463
~~chairmen~~ chairpersons of their respective standing committees that 28464
customarily consider legislation regarding underground storage 28465
tanks and the environment. The report shall set forth the 28466
petroleum underground storage tank linked deposits made by the 28467
board during the preceding year and shall include information 28468
regarding the nature, terms, and amounts of loans upon which the 28469
linked deposits were made and the eligible owners to which the 28470
loans were made. 28471

Sec. 3741.14. (A) Each filling station offering self-service 28472
shall be operated in accordance with national fire protection 28473
association standard number 30A-1990, and the provisions of the 28474
"Occupational Safety and Health Act of 1970," 84 Stat. 1590, 5 28475
U.S.C.A. 5108, and any amendments thereto and standards adopted 28476
thereunder. 28477

(B) The ~~fire marshal~~ superintendent of the division of 28478
industrial compliance shall adopt, as part of the state fire code, 28479
rules governing the equipment, operation, and maintenance of 28480
filling stations. The rules shall be such as are necessary for the 28481
protection of the persons and property of the public, but shall 28482

require as a minimum that: 28483

(1) Gasoline and other flammable or combustible liquids be 28484
dispensed only by a person who is not smoking; 28485

(2) A sign, in block letters at least four inches in height, 28486
be conspicuously displayed on each gasoline pump island where 28487
self-service is offered stating that it is a self-service island; 28488

(3) Signs giving instructions for the operation of gasoline 28489
dispensing equipment, in block letters, be conspicuously posted at 28490
each filling station offering self-service; 28491

(4) A sign bearing the following words in block letters be 28492
conspicuously posted on each gasoline pump island where 28493
self-service is offered: 28494

(a) "STOP ENGINE"; 28495

(b) "NO SMOKING"; 28496

(c) "WARNING--IT IS UNLAWFUL AND DANGEROUS TO DISPENSE 28497
GASOLINE INTO UNAPPROVED CONTAINERS"; 28498

(d) "PERSONS USING DISPENSERS WITH HOLD-OPEN LATCHES MUST 28499
REMAIN AT THE REFUELING POINT DURING REFUELING". 28500

(5) All signs required by this section be constructed of 28501
rigid, weather-resistant material; 28502

(6) Gasoline dispensing nozzles used by any person other than 28503
a supervisor, employee, or attendant be of an approved automatic 28504
closing type. Any person other than a supervisor, employee, or 28505
attendant using a dispenser with a hold-open latch shall remain at 28506
the refueling point during refueling. 28507

(C) The ~~fire marshal~~ superintendent shall not prohibit the 28508
operation of a filling station offering self-service solely 28509
because it is an unattended filling station that utilizes key- or 28510
card-operated self-service flammable or combustible liquid 28511
dispensing equipment. 28512

(D) Nothing in this section shall be interpreted to prohibit 28513
the ~~fire marshal~~ superintendent from adopting reasonable rules 28514
governing the safety of self-service flammable or combustible 28515
liquid dispensing equipment. 28516

Sec. 3741.15. The superintendent of the division of 28517
industrial compliance shall have exclusive responsibility for 28518
permitting, and the inspection of, above-ground storage tanks 28519
containing petroleum or petroleum products at bulk plants and 28520
terminals in this state. The superintendent, in consultation with 28521
the board of building standards, shall adopt those rules necessary 28522
to carry out this section. 28523

Sec. 3743.57. (A) All fees collected by the fire marshal for 28524
licenses or permits issued pursuant to this chapter shall be 28525
deposited into the state fire marshal's fund, and interest earned 28526
on the amounts in the fund shall be credited by the treasurer of 28527
state to the fund. 28528

(B) There is hereby established in the state treasury the 28529
fire marshal's fireworks training and education fund. The fire 28530
marshal shall deposit all assessments paid under this division 28531
into the state treasury to the credit of the fund. Each fireworks 28532
manufacturer and fireworks wholesaler licensed under this chapter 28533
shall pay assessments to the fire marshal for deposit into the 28534
fund as required by this division. 28535

The fire marshal shall impose an initial assessment upon each 28536
licensed fireworks manufacturer and wholesaler in order to 28537
establish a fund balance of fifteen thousand dollars. The fund 28538
balance shall at no time exceed fifteen thousand dollars, and the 28539
fire marshal shall impose no further assessments unless the fund 28540
balance is reduced to five thousand dollars or less. If the fund 28541
balance is reduced to five thousand dollars or less, the fire 28542

marshal shall impose an additional assessment upon each licensed 28543
fireworks manufacturer and wholesaler in order to increase the 28544
fund balance to fifteen thousand dollars. The fire marshal shall 28545
determine the amount of the initial assessment on each 28546
manufacturer or wholesaler and each additional assessment by 28547
dividing the total amount needed to be paid into the fund by the 28548
total number of fireworks manufacturers and wholesalers licensed 28549
under this chapter. If a licensed fireworks manufacturer or 28550
wholesaler fails to pay an assessment required by this division 28551
within thirty days after receiving notice of the assessment, the 28552
fire marshal, in accordance with Chapter 119. of the Revised Code, 28553
may refuse to issue, or may revoke, the appropriate license. 28554

The fire marshal shall in the fire marshal's discretion use 28555
amounts in the fund for fireworks training and education purposes, 28556
including, but not limited to, the creation of educational and 28557
training programs, attendance by the fire marshal and the fire 28558
marshal's employees at conferences and seminars, the payment of 28559
travel and meal expenses associated with such attendance, 28560
participation by the fire marshal and the fire marshal's employees 28561
in committee meetings and other meetings related to pyrotechnic 28562
codes, and the payment of travel and meal expenses associated with 28563
such participation. The use of the fund shall comply with rules of 28564
the department of ~~commerce~~ public safety, policies and procedures 28565
established by the director of budget and management, and all 28566
other applicable laws. 28567

Sec. 3743.75. (A) During the period beginning on ~~the~~ 28568
~~effective date of this section~~ June 29, 2001, and ending on 28569
December 15, 2005, the state fire marshal shall not do any of the 28570
following: 28571

(1) Issue a license as a manufacturer of fireworks under 28572
sections 3743.02 and 3743.03 of the Revised Code to a person for a 28573

particular fireworks plant unless that person possessed such a 28574
license for that fireworks plant immediately prior to ~~the~~ 28575
~~effective date of this section~~ June 29, 2001; 28576

(2) Issue a license as a wholesaler of fireworks under 28577
sections 3743.15 and 3743.16 of the Revised Code to a person for a 28578
particular location unless that person possessed such a license 28579
for that location immediately prior to ~~the effective date of this~~ 28580
~~section~~ June 29, 2001; 28581

(3) Except as provided in division (B) of this section, 28582
approve the transfer of a license as a manufacturer or wholesaler 28583
of fireworks issued under this chapter to any location other than 28584
a location for which a license was issued under this chapter 28585
immediately prior to ~~the effective date of this section~~ June 29, 28586
2001. 28587

(B) Division (A)(3) of this section does not apply to a 28588
transfer that the state fire marshal approves under division 28589
(D)(2) of section 3743.17 of the Revised Code. Section 3743.59 of 28590
the Revised Code does not apply to this section. 28591

(C) The department of ~~commerce~~ public safety and the division 28592
of state fire marshal shall devise, by December 15, 2005, a 28593
proposal to provide for the issuance of manufacturer and 28594
wholesaler of fireworks licenses that is based upon demographics 28595
and designed to ensure the safety of the public and send a copy of 28596
the proposal to the president of the senate and speaker of the 28597
house of representatives. 28598

Sec. 3745.04. As used in this section, "any person" means any 28599
individual, any partnership, corporation, association, or other 28600
legal entity, or any political subdivision, instrumentality, or 28601
agency of a state, whether or not the individual or legal entity 28602
is an applicant for or holder of a license, permit, or variance 28603
from the environmental protection agency, and includes any 28604

department, agency, or instrumentality of the federal government 28605
that is an applicant for or holder of a license, permit, or 28606
variance from the environmental protection agency. 28607

As used in this section, "action" or "act" includes the 28608
adoption, modification, or repeal of a rule or standard, the 28609
issuance, modification, or revocation of any lawful order other 28610
than an emergency order, and the issuance, denial, modification, 28611
or revocation of a license, permit, lease, variance, or 28612
certificate, or the approval or disapproval of plans and 28613
specifications pursuant to law or rules adopted thereunder. 28614

Any person who was a party to a proceeding before the 28615
director of environmental protection may participate in an appeal 28616
to the environmental review appeals commission for an order 28617
vacating or modifying the action of the director or a local board 28618
of health, or ordering the director or board of health to perform 28619
an act. The environmental review appeals commission has exclusive 28620
original jurisdiction over any matter that may, under this 28621
section, be brought before it. 28622

The person so appealing to the commission shall be known as 28623
appellant, and the director and any party to a proceeding 28624
substantially supporting the finding from which the appeal is 28625
taken shall be known as appellee, except that when an appeal 28626
involves a license to operate a disposal site or facility, the 28627
local board of health or the director of environmental protection, 28628
and any party to a proceeding substantially supporting the finding 28629
from which the appeal is taken, shall, as appropriate, be known as 28630
the appellee. Appellant and appellee shall be deemed to be parties 28631
to the appeal. 28632

The appeal shall be in writing and shall set forth the action 28633
complained of and the grounds upon which the appeal is based. 28634

The appeal shall be filed with the commission within thirty 28635

days after notice of the action. Notice of the filing of the 28636
appeal shall be filed with the appellee within three days after 28637
the appeal is filed with the commission. 28638

The appeal shall be accompanied by a filing fee of ~~sixty~~ 28639
seventy dollars, which the commission, in its discretion, may 28640
~~waive in cases of~~ reduce if by affidavit the appellant 28641
demonstrates that payment of the full amount of the fee would 28642
cause extreme hardship. 28643

Within seven days after receipt of the notice of appeal, the 28644
director or local board of health shall prepare and certify to the 28645
commission a record of the proceedings out of which the appeal 28646
arises, including all documents and correspondence, and a 28647
transcript of all testimony. 28648

Upon the filing of the appeal, the commission shall fix the 28649
time and place at which the hearing on the appeal will be held. 28650
The commission shall give the appellant and the appellee at least 28651
ten days' written notice thereof by certified mail. The commission 28652
shall hold the hearing within thirty days after the notice of 28653
appeal is filed. The commission may postpone or continue any 28654
hearing upon its own motion or upon application of the appellant 28655
or of the appellee. 28656

The filing of an appeal does not automatically suspend or 28657
stay execution of the action appealed from. Upon application by 28658
the appellant, the commission may suspend or stay the execution 28659
pending immediate determination of the appeal without interruption 28660
by continuances, other than for unavoidable circumstances. 28661

As used in this section and sections 3745.05 and 3745.06 of 28662
the Revised Code, "director of environmental protection" and 28663
"director" are deemed to include the director of agriculture and 28664
"environmental protection agency" is deemed to include the 28665
department of agriculture with respect to actions that are 28666

appealable to the commission under Chapter 903. of the Revised Code. 28667
28668

Sec. 3745.11. (A) Applicants for and holders of permits, licenses, variances, plan approvals, and certifications issued by the director of environmental protection pursuant to Chapters 3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee to the environmental protection agency for each such issuance and each application for an issuance as provided by this section. No fee shall be charged for any issuance for which no application has been submitted to the director. 28669
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(B) ~~Prior to January 1, 1994, each~~ Each person who is issued a ~~permit to operate, variance, or permit to install~~ prior to July 1, 2003, pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees specified in the following ~~schedule~~ schedules: 28677
28678
28679
28680
28681

(1) Fuel-Burning Equipment (boilers) 28682

Input capacity <u>(maximum)</u> (million British thermal units per hour)	Permit to operate	Variance	Permit to install	
<u>Greater than 0 or more, but less than 10</u>	\$ 75	\$225	\$ 100 <u>200</u>	28683 28684 28685 28686 28687
10 or more, but less than 100	210	450	390 <u>400</u>	28688
100 or more, but less than 300	270	675	585 <u>800</u>	28689
300 or more, but less than 500	330	900	780 <u>1500</u>	28690
500 or more, <u>but less than 1000</u>	500	975	1000 <u>2500</u>	28691
<u>1000 or more, but less than 5000</u>			<u>4000</u>	28692
<u>5000 or more</u>			<u>6000</u>	28693

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half of the applicable 28694
28695

amount established in division (F)(1) of this section. 28696

~~Any fuel burning equipment using only natural gas, propane, 28697
liquefied petroleum gas, or number two or lighter fuel oil shall 28698
be assessed a fee one half of that shown. 28699~~

(2) Incinerators 28700

	Permit		Permit	
	to		to	28701
Input capacity	to			28702
(pounds per hour)	operate	Variancee	install	28703
0 to 50 <u>100</u>	\$ 50	\$225	\$ 65 <u>100</u>	28704
51 <u>101</u> to 500	210	450	390 <u>400</u>	28705
501 to 2000	270	675	585 <u>750</u>	28706
2001 to 30,000 <u>20,000</u>	330	900	780	28707
			<u>1000</u>	
more than 30,000 <u>20,000</u>	500	975	1000	28708
			<u>2500</u>	

~~(3)(a)~~ Process 28709

	Permit		Permit	
	to		to	28710
Process weight rate	to			28711
(pounds per hour)	operate	Variancee	install	28712
0 to 1000	\$100	\$225	\$ 200	28713
1001 to 5000	210	450	390 <u>400</u>	28714
5001 to 10,000	270	675	585 <u>600</u>	28715
10,001 to 50,000	330	900	780 <u>800</u>	28716
more than 50,000	500	975	1000	28717

In any process where process weight rate cannot be 28718
ascertained, the minimum fee shall be assessed. 28719

(b) Notwithstanding division (B)(3)(a) of this section, any 28720
person issued a permit to install pursuant to rules adopted under 28721
division (F) of section 3704.03 of the Revised Code shall pay the 28722
fees established in division (B)(3)(c) of this section for a 28723
process used in any of the following industries, as identified by 28724

<u>the applicable four-digit standard industrial classification code</u>		28725		
<u>according to the Standard Industrial Classification Manual</u>		28726		
<u>published by the United States office of management and budget in</u>		28727		
<u>the executive office of the president, 1972, as revised:</u>		28728		
<u>1211 Bituminous coal and lignite mining;</u>		28729		
<u>1213 Bituminous coal and lignite mining services;</u>		28730		
<u>1411 Dimension stone;</u>		28731		
<u>1422 Crushed and broken limestone;</u>		28732		
<u>1427 Crushed and broken stone, not elsewhere classified;</u>		28733		
<u>1442 Construction sand and gravel;</u>		28734		
<u>1446 Industrial sand;</u>		28735		
<u>3281 Cut stone and stone products;</u>		28736		
<u>3295 Minerals and earth, ground or otherwise treated.</u>		28737		
<u>(c) The fees established in the following schedule apply to</u>		28738		
<u>the issuance of a permit to install pursuant to rules adopted</u>		28739		
<u>under division (F) of section 3704.03 of the Revised Code for a</u>		28740		
<u>process listed in division (B)(3)(b) of this section:</u>		28741		
<u>Process weight rate</u>	<u>Permit to</u>	28742		
<u>(pounds per hour)</u>	<u>install</u>	28743		
<u>0 to 1000</u>	<u>\$ 200</u>	28744		
<u>10,001 to 50,000</u>	<u>300</u>	28745		
<u>50,001 to 100,000</u>	<u>400</u>	28746		
<u>100,001 to 200,000</u>	<u>500</u>	28747		
<u>200,001 to 400,000</u>	<u>600</u>	28748		
<u>400,001 or more</u>	<u>700</u>	28749		
(4) Storage tanks		28750		
Gallons (<u>maximum useful</u> capacity)	<u>Permit</u>	<u>Permit</u>	28751	
	<u>to</u>	<u>to</u>	28752	
	<u>operate</u>	<u>Variance</u>	<u>install</u>	28753
			28754	

Less than 40,000 <u>0 to 20,000</u>	\$150	\$225	\$ 195 <u>100</u>	28755
20,001 to 40,000 or more, but less				28756
than 100,000	210	450	390 <u>150</u>	28757
100,000 or more, but less				28758
than 400,000	270	675	585	28759
400,000 or more, but less				28760
than <u>40,001 to 100,000</u>			<u>200</u>	28761
<u>100,001 to 250,000</u>			<u>250</u>	28762
<u>250,001 to 500,000</u>			<u>350</u>	28763
<u>500,001 to 1,000,000</u>	330	900	780 <u>500</u>	28764
1,000,000 <u>1,000,001 or more greater</u>	500	975	1000 <u>750</u>	28765
(5) Gasoline				28766
Gasoline/fuel dispensing	Permit		Permit	28767
facilities	to		to	28768
	operate	Variance	install	28769
For each gasoline/fuel				28770
dispensing facility	\$20	\$100	\$ 50 <u>100</u>	28771
(6) Dry cleaning				28772
Dry cleaning	Permit		Permit	28773
facilities	to		to	28774
	operate	Variance	install	28775
For each dry cleaning				28776
facility <u>(includes all units</u>	\$50	\$200	\$100	28777
<u>at the facility)</u>				28778
(7) Coal mining operations regulated under Chapter 1513. of				28779
the Revised Code shall be assessed a fee of two hundred fifty				28780
dollars per mine or location. <u>Registration status</u>				28781
			<u>Permit</u>	28782
			<u>to</u>	28783
			<u>install</u>	28784
<u>For each source covered by registration status</u>			<u>\$75</u>	28785
(C)(1) Except as otherwise provided in division (C)(2) of				28786

this section, beginning July 1, 1994, each person who owns or 28787
operates an air contaminant source and who is required to apply 28788
for and obtain a Title V permit under section 3704.036 of the 28789
Revised Code shall pay the fees set forth in division (C)(1) of 28790
this section. For the purposes of that division, total emissions 28791
of air contaminants may be calculated using engineering 28792
calculations, emissions factors, material balance calculations, or 28793
performance testing procedures, as authorized by the director. 28794

The following fees shall be assessed on the total actual 28795
emissions from a source in tons per year of the regulated 28796
pollutants particulate matter, sulfur dioxide, nitrogen oxides, 28797
organic compounds, and lead: 28798

(a) Fifteen dollars per ton on the total actual emissions of 28799
each such regulated pollutant during the period July through 28800
December 1993, to be collected no sooner than July 1, 1994; 28801

(b) Twenty dollars per ton on the total actual emissions of 28802
each such regulated pollutant during calendar year 1994, to be 28803
collected no sooner than April 15, 1995; 28804

(c) Twenty-five dollars per ton on the total actual emissions 28805
of each such regulated pollutant in calendar year 1995, and each 28806
subsequent calendar year, to be collected no sooner than the 28807
fifteenth day of April of the year next succeeding the calendar 28808
year in which the emissions occurred. 28809

The fees levied under division (C)(1) of this section do not 28810
apply to that portion of the emissions of a regulated pollutant at 28811
a facility that exceed four thousand tons during a calendar year. 28812

(2) The fees assessed under division (C)(1) of this section 28813
are for the purpose of providing funding for the Title V permit 28814
program. 28815

(3) The fees assessed under division (C)(1) of this section 28816
do not apply to emissions from any electric generating unit 28817

designated as a Phase I unit under Title IV of the federal Clean Air Act prior to calendar year 2000. Those fees shall be assessed on the emissions from such a generating unit commencing in calendar year 2001 based upon the total actual emissions from the generating unit during calendar year 2000 and shall continue to be assessed each subsequent calendar year based on the total actual emissions from the generating unit during the preceding calendar year.

(4) The director shall issue invoices to owners or operators of air contaminant sources who are required to pay a fee assessed under division (C) or (D) of this section. Any such invoice shall be issued no sooner than the applicable date when the fee first may be collected in a year under the applicable division, shall identify the nature and amount of the fee assessed, and shall indicate that the fee is required to be paid within thirty days after the issuance of the invoice.

(D)(1) Except as provided in division (D)~~(2)~~(3) of this section, ~~beginning from~~ from January 1, 1994, through December 31, 2003, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year		28846
of regulated pollutants	Annual fee	28847
emitted	per facility	28848
More than 0, but less than 50	\$ 75	28849

50 or more, but less than 100	300	28850
100 or more	700	28851

(2) Except as provided in division (D)(3) of this section, 28852
beginning January 1, 2004, each person who owns or operates an air 28853
contaminant source; who is required to apply for a permit to 28854
operate pursuant to rules adopted under division (G), or a 28855
variance pursuant to division (H), of section 3704.03 of the 28856
Revised Code; and who is not required to apply for and obtain a 28857
Title V permit under section 3704.03 of the Revised Code shall pay 28858
a single fee based upon the sum of the actual annual emissions 28859
from the facility of the regulated pollutants particulate matter, 28860
sulfur dioxide, nitrogen oxides, organic compounds, and lead in 28861
accordance with the following schedule: 28862

<u>Total tons per year</u>		28863
<u>of regulated pollutants</u>	<u>Annual fee</u>	28864
<u>emitted</u>	<u>per facility</u>	28865
<u>More than 0, but less than 10</u>	<u>\$ 100</u>	28866
<u>10 or more, but less than 50</u>	<u>200</u>	28867
<u>50 or more, but less than 100</u>	<u>300</u>	28868
<u>100 or more</u>	<u>700</u>	28869

(3)(a) As used in division (D) of this section, "synthetic 28870
minor facility" means a facility for which one or more permits to 28871
install or permits to operate have been issued for the air 28872
contaminant sources at the facility that include terms and 28873
conditions that lower the facility's potential to emit air 28874
contaminants below the major source thresholds established in 28875
rules adopted under section 3704.036 of the Revised Code. 28876

(b) Beginning January 1, 2000, through June 30, ~~2004~~ 2006, 28877
each person who owns or operates a synthetic minor facility shall 28878
pay an annual fee based on the sum of the actual annual emissions 28879
from the facility of particulate matter, sulfur dioxide, nitrogen 28880
dioxide, organic compounds, and lead in accordance with the 28881

following schedule:		28882
Combined total tons		28883
per year of all regulated	Annual fee	28884
pollutants emitted	per facility	28885
Less than 10	\$ 170	28886
10 or more, but less than 20	340	28887
20 or more, but less than 30	670	28888
30 or more, but less than 40	1,010	28889
40 or more, but less than 50	1,340	28890
50 or more, but less than 60	1,680	28891
60 or more, but less than 70	2,010	28892
70 or more, but less than 80	2,350	28893
80 or more, but less than 90	2,680	28894
90 or more, but less than 100	3,020	28895
100 or more	3,350	28896
(3) (4) The fees assessed under division (D)(1) of this		28897
section shall be collected annually no sooner than the fifteenth		28898
day of April, commencing in 1995. <u>The fees assessed under division</u>		28899
<u>(D)(2) of this section shall be collected annually no sooner than</u>		28900
<u>the fifteenth day of April, commencing in 2005.</u> The fees assessed		28901
under division (D) (2) (3) of this section shall be collected no		28902
sooner than the fifteenth day of April, commencing in 2000. The		28903
fees assessed under division (D) of this section in a calendar		28904
year shall be based upon the sum of the actual emissions of those		28905
regulated pollutants during the preceding calendar year. For the		28906
purpose of division (D) of this section, emissions of air		28907
contaminants may be calculated using engineering calculations,		28908
emission factors, material balance calculations, or performance		28909
testing procedures, as authorized by the director. The director,		28910
by rule, may require persons who are required to pay the fees		28911
assessed under division (D) of this section to pay those fees		28912
biennially rather than annually.		28913

(E)(1) Consistent with the need to cover the reasonable costs 28914
of the Title V permit program, the director annually shall 28915
increase the fees prescribed in division (C)(1) of this section by 28916
the percentage, if any, by which the consumer price index for the 28917
most recent calendar year ending before the beginning of a year 28918
exceeds the consumer price index for calendar year 1989. Upon 28919
calculating an increase in fees authorized by division (E)(1) of 28920
this section, the director shall compile revised fee schedules for 28921
the purposes of division (C)(1) of this section and shall make the 28922
revised schedules available to persons required to pay the fees 28923
assessed under that division and to the public. 28924

(2) For the purposes of division (E)(1) of this section: 28925

(a) The consumer price index for any year is the average of 28926
the consumer price index for all urban consumers published by the 28927
United States department of labor as of the close of the 28928
twelve-month period ending on the thirty-first day of August of 28929
that year. 28930

(b) If the 1989 consumer price index is revised, the director 28931
shall use the revision of the consumer price index that is most 28932
consistent with that for calendar year 1989. 28933

(F) Each person who is issued a permit to install pursuant to 28934
rules adopted under division (F) of section 3704.03 of the Revised 28935
Code on or after ~~January 1, 1994~~ July 1, 2003, shall pay the fees 28936
specified in the following schedules: 28937

(1) Fuel-burning equipment (boilers, furnaces, or process 28938
heaters used in the process of burning fuel for the primary 28939
purpose of producing heat or power by indirect heat transfer) 28940
Input capacity (maximum) 28941
(million British thermal units per hour) Permit to install 28942
Greater than 0, but less than 10 \$ 200 28943
10 or more, but less than 100 400 28944

100 or more, but less than 300	800 <u>1000</u>	28945
300 or more, but less than 500	1500 <u>2250</u>	28946
500 or more, but less than 1000	2500 <u>3750</u>	28947
1000 or more, but less than 5000	4000 <u>6000</u>	28948
5000 or more	6000 <u>9000</u>	28949

Units burning exclusively natural gas, number two fuel oil, 28950
or both shall be assessed a fee that is one-half the applicable 28951
amount shown in division (F)(1) of this section. 28952

(2) Combustion turbines and stationary internal combustion 28953
engines designed to generate electricity 28954

<u>Generating capacity (mega watts)</u>	<u>Permit to install</u>	
<u>0 or more, but less than 10</u>	<u>\$ 25</u>	28955
<u>10 or more, but less than 25</u>	<u>150</u>	28956
<u>25 or more, but less than 50</u>	<u>300</u>	28957
<u>50 or more, but less than 100</u>	<u>500</u>	28958
<u>100 or more, but less than 250</u>	<u>1000</u>	28959
<u>250 or more</u>	<u>2000</u>	28960

(3) Incinerators 28962

Input capacity (pounds per hour)	Permit to install	
0 to 100	\$ 100	28963
101 to 500	400 <u>500</u>	28964
501 to 2000	750 <u>1000</u>	28965
2001 to 20,000	1000 <u>1500</u>	28966
more than 20,000	2500 <u>3750</u>	28967

~~(3)~~(4)(a) Process 28969

Process weight rate (pounds per hour)	Permit to install	
0 to 1000	\$ 200	28970
1001 to 5000	400 <u>500</u>	28971
5001 to 10,000	600 <u>750</u>	28972
10,001 to 50,000	800 <u>1000</u>	28973
more than 50,000	1000 <u>1250</u>	28974

In any process where process weight rate cannot be 28976
ascertained, the minimum fee shall be assessed. A boiler, furnace, 28977
combustion turbine, stationary internal combustion engine, or 28978
process heater designed to provide direct heat or power to a 28979
process not designed to generate electricity shall be assessed a 28980
fee established in division (F)(4)(a) of this section. A 28981
combustion turbine or stationary internal combustion engine 28982
designed to generate electricity shall be assessed a fee 28983
established in division (F)(2) of this section. 28984

(b) Notwithstanding division (F)(3)(a) of this section, any 28985
person issued a permit to install pursuant to rules adopted under 28986
division (F) of section 3704.03 of the Revised Code shall pay the 28987
fees set forth in division (F)(3)(c) of this section for a process 28988
used in any of the following industries, as identified by the 28989
applicable four-digit standard industrial classification code 28990
according to the Standard Industrial Classification Manual 28991
published by the United States office of management and budget in 28992
the executive office of the president, 1972, as revised: 28993

1211 Bituminous coal and lignite mining; 28994

1213 Bituminous coal and lignite mining services; 28995

1411 Dimension stone; 28996

1422 Crushed and broken limestone; 28997

1427 Crushed and broken stone, not elsewhere classified; 28998

1442 Construction sand and gravel; 28999

1446 Industrial sand; 29000

3281 Cut stone and stone products; 29001

3295 Minerals and earth, ground or otherwise treated. 29002

(c) The fees set forth in the following schedule apply to the 29003
issuance of a permit to install pursuant to rules adopted under 29004

division (F) of section 3704.03 of the Revised Code for a process		29005
identified in division (F)(3)(b) of this section:		29006
Gallons (maximum		29007
useful capacity <u>Process weight rate</u>	Permit to install	29008
<u>(pounds per hour)</u>		
0 to 20,000 <u>10,000</u>	\$ 100 <u>200</u>	29009
20,001 <u>10,001</u> to 40,000 <u>50,000</u>	150 <u>400</u>	29010
40,001 <u>50,001</u> to 100,000	200 <u>500</u>	29011
100,001 to 250,000 <u>200,000</u>	250 <u>600</u>	29012
250,001 <u>200,001</u> to 500,000 <u>400,000</u>	350 <u>750</u>	29013
500,001 to 1,000,000	500	29014
1,000,001 <u>400,001</u> or greater <u>more</u>	750 <u>900</u>	29015
(4) <u>(5)</u> Storage tanks		29016
Gallons (maximum useful capacity)	Permit to install	29017
0 to 20,000	\$ 100	29018
20,001 to 40,000	150	29019
40,001 to 100,000	200 <u>250</u>	29020
100,001 to 250,000	250	29021
250,001 to 500,000	350 <u>400</u>	29022
500,001 to 1,000,000	500	29023
1,000,001 or greater	750	29024
(5) <u>(6)</u> Gasoline/fuel dispensing facilities		29025
For each gasoline/fuel	Permit to install	29026
dispensing facility <u>(includes all</u>	\$ 100	29027
<u>units at the facility)</u>		
(6) <u>(7)</u> Dry cleaning facilities		29028
For each dry cleaning		29029
facility (includes all units	Permit to install	29030
at the facility)	\$ 100	29031
(7) <u>(8)</u> Registration status		29032
For each source covered	Permit to install	29033
by registration status	\$ 75	29034

(G) An owner or operator who is responsible for an asbestos demolition or renovation project pursuant to rules adopted under section 3704.03 of the Revised Code shall pay the fees set forth in the following schedule:

Action	Fee	
Each notification	\$75	29039
Asbestos removal	\$3/unit	29040
Asbestos cleanup	\$4/cubic yard	29041

For purposes of this division, "unit" means any combination of linear feet or square feet equal to fifty.

(H) A person who is issued an extension of time for a permit to install an air contaminant source pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay a fee equal to one-half the fee originally assessed for the permit to install under this section, except that the fee for such an extension shall not exceed two hundred dollars.

(I) A person who is issued a modification to a permit to install an air contaminant source pursuant to rules adopted under section 3704.03 of the Revised Code shall pay a fee equal to one-half of the fee that would be assessed under this section to obtain a permit to install the source. The fee assessed by this division only applies to modifications that are initiated by the owner or operator of the source and shall not exceed two thousand dollars.

(J) Notwithstanding division (B) or (F) of this section, a person who applies for or obtains a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code after the date actual construction of the source began shall pay a fee for the permit to install that is equal to twice the fee that otherwise would be assessed under the applicable division unless the applicant received authorization to begin construction

under division (W) of section 3704.03 of the Revised Code. This 29066
division only applies to sources for which actual construction of 29067
the source begins on or after July 1, 1993. The imposition or 29068
payment of the fee established in this division does not preclude 29069
the director from taking any administrative or judicial 29070
enforcement action under this chapter, Chapter 3704., 3714., 29071
3734., or 6111. of the Revised Code, or a rule adopted under any 29072
of them, in connection with a violation of rules adopted under 29073
division (F) of section 3704.03 of the Revised Code. 29074

As used in this division, "actual construction of the source" 29075
means the initiation of physical on-site construction activities 29076
in connection with improvements to the source that are permanent 29077
in nature, including, without limitation, the installation of 29078
building supports and foundations and the laying of underground 29079
pipework. 29080

(K) Fifty cents per ton of each fee assessed under division 29081
(C) of this section on actual emissions from a source and received 29082
by the environmental protection agency pursuant to that division 29083
shall be deposited into the state treasury to the credit of the 29084
small business assistance fund created in section 3706.19 of the 29085
Revised Code. The remainder of the moneys received by the division 29086
pursuant to that division and moneys received by the agency 29087
pursuant to divisions (D), (F), (G), (H), (I), and (J) of this 29088
section shall be deposited in the state treasury to the credit of 29089
the clean air fund created in section 3704.035 of the Revised 29090
Code. 29091

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 29092
or (c) of this section, a person issued a water discharge permit 29093
or renewal of a water discharge permit pursuant to Chapter 6111. 29094
of the Revised Code shall pay a fee based on each point source to 29095
which the issuance is applicable in accordance with the following 29096
schedule: 29097

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	29099
1,001 to 5000	100	29100
5,001 to 50,000	200	29101
50,001 to 100,000	300	29102
100,001 to 300,000	525	29103
over 300,000	750	29104

(b) Notwithstanding the fee schedule specified in division 29105
(L)(1)(a) of this section, the fee for a water discharge permit 29106
that is applicable to coal mining operations regulated under 29107
Chapter 1513. of the Revised Code shall be two hundred fifty 29108
dollars per mine. 29109

(c) Notwithstanding the fee schedule specified in division 29110
(L)(1)(a) of this section, the fee for a water discharge permit 29111
for a public discharger identified by I in the third character of 29112
the permittee's NPDES permit number shall not exceed seven hundred 29113
fifty dollars. 29114

(2) A person applying for a plan approval for a wastewater 29115
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 29116
of the Revised Code shall pay a fee of one hundred dollars plus 29117
sixty-five one-hundredths of one per cent of the estimated project 29118
cost through June 30, ~~2004~~ 2006, and one hundred dollars plus 29119
two-tenths of one per cent of the estimated project cost on and 29120
after July 1, ~~2004~~ 2006, except that the total fee shall not 29121
exceed fifteen thousand dollars through June 30, ~~2004~~ 2006, and 29122
five thousand dollars on and after July 1, ~~2004~~ 2006. The fee 29123
shall be paid at the time the application is submitted. 29124

(3) A person issued a modification of a water discharge 29125
permit shall pay a fee equal to one-half the fee that otherwise 29126
would be charged for a water discharge permit, except that the fee 29127
for the modification shall not exceed four hundred dollars. 29128

(4) A person who has entered into an agreement with the director under section 6111.14 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons who have entered into agreements under that section, or who have applied for agreements, of the amount of the fee.

(5)(a)(i) Not later than January 30, ~~2002~~ 2004, and January 30, ~~2003~~ 2005, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee established in division (L)(5)(a)(i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the billing year, of the circumstances causing the cessation of discharge.

(iii) The annual discharge fee established in division (L)(5)(a)(i) of this section, except for the surcharge applicable

to certain industrial facilities pursuant to division (L)(5)(c) of 29161
this section, shall be based upon the average daily discharge flow 29162
in gallons per day calculated using first day of May through 29163
thirty-first day of October flow data for the period two years 29164
prior to the date on which the fee is due. In the case of NPDES 29165
discharge permits for new sources, the fee shall be calculated 29166
using the average daily design flow of the facility until actual 29167
average daily discharge flow values are available for the time 29168
period specified in division (L)(5)(a)(iii) of this section. The 29169
annual discharge fee may be prorated for a new source as described 29170
in division (L)(5)(a)(ii) of this section. 29171

(b) An NPDES permit holder that is a public discharger shall 29172
pay the fee specified in the following schedule: 29173

Average daily	Fee due by	
discharge flow	January 30,	
	2002 <u>2004</u> , and	
	January 30, 2003	
	<u>2005</u>	
5,000 to 49,999	\$ 200	29178
50,000 to 100,000	500	29179
100,001 to 250,000	1,050	29180
250,001 to 1,000,000	2,600	29181
1,000,001 to 5,000,000	5,200	29182
5,000,001 to 10,000,000	10,350	29183
10,000,001 to 20,000,000	15,550	29184
20,000,001 to 50,000,000	25,900	29185
50,000,001 to 100,000,000	41,400	29186
100,000,001 or more	62,100	29187

Public dischargers owning or operating two or more publicly 29188
owned treatment works serving the same political subdivision, as 29189
"treatment works" is defined in section 6111.01 of the Revised 29190
Code, and that serve exclusively political subdivisions having a 29191

population of fewer than one hundred thousand shall pay an annual 29192
discharge fee under division (L)(5)(b) of this section that is 29193
based on the combined average daily discharge flow of the 29194
treatment works. 29195

(c) An NPDES permit holder that is an industrial discharger, 29196
other than a coal mining operator identified by P in the third 29197
character of the permittee's NPDES permit number, shall pay the 29198
fee specified in the following schedule: 29199

Average daily	Fee due by	
discharge flow	January 30,	
	2002 <u>2004</u> , and	
	January 30, 2003	
	<u>2005</u>	
5,000 to 49,999	\$ 250	29204
50,000 to 250,000	1,200	29205
250,001 to 1,000,000	2,950	29206
1,000,001 to 5,000,000	5,850	29207
5,000,001 to 10,000,000	8,800	29208
10,000,001 to 20,000,000	11,700	29209
20,000,001 to 100,000,000	14,050	29210
100,000,001 to 250,000,000	16,400	29211
250,000,001 or more	18,700	29212

In addition to the fee specified in the above schedule, an 29213
NPDES permit holder that is an industrial discharger classified as 29214
a major discharger during all or part of the annual discharge fee 29215
billing year specified in division (L)(5)(a)(ii) of this section 29216
shall pay a nonrefundable annual surcharge of seven thousand five 29217
hundred dollars not later than January 30, ~~2002~~ 2004, and not 29218
later than January 30, ~~2003~~ 2005. Any person who fails to pay the 29219
surcharge at that time shall pay an additional amount that equals 29220
ten per cent of the amount of the surcharge. 29221

(d) Notwithstanding divisions (L)(5)(b) and (c) of this 29222

section, a public discharger identified by I in the third 29223
character of the permittee's NPDES permit number and an industrial 29224
discharger identified by I, J, L, V, W, X, Y, or Z in the third 29225
character of the permittee's NPDES permit number shall pay a 29226
nonrefundable annual discharge fee of one hundred eighty dollars 29227
not later than January 30, ~~2002~~ 2004, and not later than January 29228
30, ~~2003~~ 2005. Any person who fails to pay the fee at that time 29229
shall pay an additional amount that equals ten per cent of the 29230
required fee. 29231

(6) Each person obtaining a national pollutant discharge 29232
elimination system general or individual permit for municipal 29233
storm water discharge shall pay a nonrefundable storm water 29234
discharge fee of one hundred dollars per square mile of area 29235
permitted. The fee shall not exceed ten thousand dollars and shall 29236
be payable on or before January 30, 2004, and the thirtieth day of 29237
January of each year thereafter. Any person who fails to pay the 29238
fee on the date specified in division (L)(6) of this section shall 29239
pay an additional amount per year equal to ten per cent of the 29240
annual fee that is unpaid. 29241

(7) The director shall transmit all moneys collected under 29242
division (L) of this section to the treasurer of state for deposit 29243
into the state treasury to the credit of the surface water 29244
protection fund created in section 6111.038 of the Revised Code. 29245

(8) As used in division (L) of this section: 29246

(a) "NPDES" means the federally approved national pollutant 29247
discharge elimination system program for issuing, modifying, 29248
revoking, reissuing, terminating, monitoring, and enforcing 29249
permits and imposing and enforcing pretreatment requirements under 29250
Chapter 6111. of the Revised Code and rules adopted under it. 29251

(b) "Public discharger" means any holder of an NPDES permit 29252
identified by P in the second character of the NPDES permit number 29253

assigned by the director. 29254

(c) "Industrial discharger" means any holder of an NPDES 29255
permit identified by I in the second character of the NPDES permit 29256
number assigned by the director. 29257

(d) "Major discharger" means any holder of an NPDES permit 29258
classified as major by the regional administrator of the United 29259
States environmental protection agency in conjunction with the 29260
director. 29261

(M) Through June 30, ~~2004~~ 2006, a person applying for a 29262
license or license renewal to operate a public water system under 29263
section 6109.21 of the Revised Code shall pay the appropriate fee 29264
established under this division at the time of application to the 29265
director. Any person who fails to pay the fee at that time shall 29266
pay an additional amount that equals ten per cent of the required 29267
fee. The director shall transmit all moneys collected under this 29268
division to the treasurer of state for deposit into the drinking 29269
water protection fund created in section 6109.30 of the Revised 29270
Code. 29271

Fees required under this division shall be calculated and 29272
paid in accordance with the following schedule: 29273

(1) For the initial license required under division (A)(1) of 29274
section 6109.21 of the Revised Code for any public water system 29275
that is a community water system as defined in section 6109.01 of 29276
the Revised Code, and for each license renewal required for such a 29277
system prior to January 31, ~~2004~~ 2006, the fee is: 29278

Number of service connections	Fee amount	
Not more than 49	\$56 <u>112</u>	29280
50 to 99	88 <u>176</u>	29281
Number of service connections	Average cost per connection	
100 to 2,499	\$.96 <u>1.92</u>	29283
2,500 to 4,999	.92 <u>1.60</u>	29284

5,000 to 7,499	-.88 <u>1.54</u>	29285
7,500 to 9,999	-.84 <u>1.48</u>	29286
10,000 to 14,999	-.80 <u>1.28</u>	29287
15,000 to 24,999	-.76 <u>1.22</u>	29288
25,000 to 49,999	-.72 <u>1.16</u>	29289
50,000 to 99,999	-.68 <u>.92</u>	29290
100,000 to 149,999	-.64 <u>.86</u>	29291
150,000 to 199,999	-.60 <u>.80</u>	29292
200,000 or more	-.56 <u>.76</u>	29293

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under division (A)(2) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, ~~2004~~ 2006, the fee is:

Population served	Fee amount	
Fewer than 150	\$ 56 <u>112</u>	29307
150 to 299	88 <u>176</u>	29308
300 to 749	192 <u>384</u>	29309
750 to 1,499	392 <u>686</u>	29310
1,500 to 2,999	792 <u>1,386</u>	29311
3,000 to 7,499	1,760 <u>3,080</u>	29312
7,500 to 14,999	3,800 <u>6,270</u>	29313
15,000 to 22,499	6,240 <u>10,296</u>	29314
22,500 to 29,999	8,576 <u>14,150</u>	29315

30,000 or more ~~11,600~~ 19,140 29317

As used in division (M)(2) of this section, "population 29318
served" means the total number of individuals receiving water from 29319
the water supply during a twenty-four-hour period for at least 29320
sixty days during any calendar year. In the absence of a specific 29321
population count, that number shall be calculated at the rate of 29322
three individuals per service connection. 29323

(3) For the initial license required under division (A)(3) of 29324
section 6109.21 of the Revised Code for any public water system 29325
that is not a community water system and serves a transient 29326
population, and for each license renewal required for such a 29327
system prior to January 31, ~~2004~~ 2006, the fee is: 29328

Number of wells supplying system	Fee amount	
1	\$ 56 <u>112</u>	29329 29330
2	56 <u>112</u>	29331
3	88 <u>176</u>	29332
4	192 <u>316</u>	29333
5	392 <u>646</u>	29334
System supplied by surface 29335 water, springs, or dug wells	792 <u>1,300</u> 29336	

As used in division (M)(3) of this section, "number of wells 29337
supplying system" means those wells that are physically connected 29338
to the plumbing system serving the public water system. 29339

(N)(1) A person applying for a plan approval for a public 29340
water supply system under section 6109.07 of the Revised Code 29341
shall pay a fee of one hundred fifty dollars plus ~~two tenths~~ 29342
thirty-five hundredths of one per cent of the estimated project 29343
cost, except that the total fee shall not exceed ~~fifteen~~ twenty 29344
thousand dollars through June 30, ~~2004~~ 2006, and ~~five~~ fifteen 29345
thousand dollars on and after July 1, ~~2004~~ 2006. The fee shall be 29346
paid at the time the application is submitted. 29347

(2) A person who has entered into an agreement with the director under division (A)(2) of section 6109.07 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons that have entered into agreements under that division, or who have applied for agreements, of the amount of the fee.

(3) Through June 30, ~~2004~~ 2006, the following fee, on a per survey basis, shall be charged any person for services rendered by the state in the evaluation of laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established pursuant to Chapter 6109. of the Revised Code for determining the qualitative characteristics of water:

microbiological	\$1,650	29363
<u>MMO-MUG</u>	<u>\$2,000</u>	29364
<u>MF</u>	<u>2,100</u>	29365
<u>MMO-MUG and MF</u>	<u>2,550</u>	29366
organic chemical	3,500 <u>5,400</u>	29367
inorganic chemical	3,500 <u>5,400</u>	29368
standard chemistry	1,800 <u>2,800</u>	29369
limited chemistry	1,000 <u>1,550</u>	29370

On and after July 1, ~~2004~~ 2006, the following fee, on a per survey basis, shall be charged any such person:

microbiological	\$250 <u>1,650</u>	29373
chemical/radiological	250 <u>3,500</u>	29374
nitrate/turbidity (only)	150 <u>1,000</u>	29375

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, ~~2004~~ 2006, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the

addition of analytical methods or analysts, in which case the 29380
person shall pay eighteen hundred dollars for each additional 29381
survey requested. 29382

As used in division (N)(3) of this section: 29383

(a) "MF" means microfiltration. 29384

(b) "MMO" means minimal medium ONPG. 29385

(c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide. 29386

(d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside. 29387

The director shall transmit all moneys collected under this 29388
division to the treasurer of state for deposit into the drinking 29389
water protection fund created in section 6109.30 of the Revised 29390
Code. 29391

(O) Any person applying to the director for examination for 29392
certification as an operator of a water supply system or 29393
wastewater system under Chapter 6109. or 6111. of the Revised 29394
Code, at the time the application is submitted, shall pay an 29395
application fee of ~~twenty-five~~ forty-five dollars through June 30, 29396
~~2004~~ 2006, and ~~ten~~ twenty-five dollars on and after July 1, ~~2004~~ 29397
2006. Upon approval from the director that the applicant is 29398
eligible to take the examination therefor, the applicant shall pay 29399
a fee in accordance with the following schedule through June 30, 29400
~~2004~~ 2006: 29401

<u>Class A operator</u>	<u>\$45</u>	29402
Class I operator	\$45 <u>75</u>	29403
Class II operator	55 <u>95</u>	29404
Class III operator	65 <u>110</u>	29405
Class IV operator	75 <u>125</u>	29406

On and after July 1, ~~2004~~ 2006, the applicant shall pay a fee 29407
in accordance with the following schedule: 29408

<u>Class A operator</u>	<u>\$25</u>	29409
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Class I operator	\$25 <u>45</u>	29410
Class II operator	35 <u>55</u>	29411
Class III operator	45 <u>65</u>	29412
Class IV operator	55 <u>75</u>	29413

A person shall pay a biennial certification renewal fee for 29414
each applicable class of certification in accordance with the 29415
following schedule: 29416

<u>Class A operator</u>	<u>\$25</u>	29417
<u>Class I operator</u>	<u>35</u>	29418
<u>Class II operator</u>	<u>45</u>	29419
<u>Class III operator</u>	<u>55</u>	29420
<u>Class IV operator</u>	<u>65</u>	29421

If a certification renewal fee is received by the director 29422
more than thirty days, but not more than one year after the 29423
expiration date of the certification, the person shall pay a 29424
certification renewal fee in accordance with the following 29425
schedule: 29426

<u>Class A operator</u>	<u>\$45</u>	29427
<u>Class I operator</u>	<u>55</u>	29428
<u>Class II operator</u>	<u>65</u>	29429
<u>Class III operator</u>	<u>75</u>	29430
<u>Class IV operator</u>	<u>85</u>	29431

A person who requests a replacement certificate shall pay a 29432
fee of twenty-five dollars at the time the request is made. 29433

The director shall transmit all moneys collected under this 29434
division to the treasurer of state for deposit into the drinking 29435
water protection fund created in section 6109.30 of the Revised 29436
Code. 29437

(P) Through June 30, 2004, any person submitting an 29438
application for an industrial water pollution control certificate 29439
under section 6111.31 of the Revised Code shall pay a 29440

nonrefundable fee of five hundred dollars at the time the 29441
application is submitted. The director shall transmit all moneys 29442
collected under this division to the treasurer of state for 29443
deposit into the surface water protection fund created in section 29444
6111.038 of the Revised Code. A person paying a certificate fee 29445
under this division shall not pay an application fee under 29446
division (S)(1) of this section. 29447

(Q) Except as otherwise provided in division (R) of this 29448
section, a person issued a permit by the director for a new solid 29449
waste disposal facility other than an incineration or composting 29450
facility, a new infectious waste treatment facility other than an 29451
incineration facility, or a modification of such an existing 29452
facility that includes an increase in the total disposal or 29453
treatment capacity of the facility pursuant to Chapter 3734. of 29454
the Revised Code shall pay a fee of ten dollars per thousand cubic 29455
yards of disposal or treatment capacity, or one thousand dollars, 29456
whichever is greater, except that the total fee for any such 29457
permit shall not exceed eighty thousand dollars. A person issued a 29458
modification of a permit for a solid waste disposal facility or an 29459
infectious waste treatment facility that does not involve an 29460
increase in the total disposal or treatment capacity of the 29461
facility shall pay a fee of one thousand dollars. A person issued 29462
a permit to install a new, or modify an existing, solid waste 29463
transfer facility under that chapter shall pay a fee of two 29464
thousand five hundred dollars. A person issued a permit to install 29465
a new or to modify an existing solid waste incineration or 29466
composting facility, or an existing infectious waste treatment 29467
facility using incineration as its principal method of treatment, 29468
under that chapter shall pay a fee of one thousand dollars. The 29469
increases in the permit fees under this division resulting from 29470
the amendments made by Amended Substitute House Bill 592 of the 29471
117th general assembly do not apply to any person who submitted an 29472
application for a permit to install a new, or modify an existing, 29473

solid waste disposal facility under that chapter prior to 29474
September 1, 1987; any such person shall pay the permit fee 29475
established in this division as it existed prior to June 24, 1988. 29476
In addition to the applicable permit fee under this division, a 29477
person issued a permit to install or modify a solid waste facility 29478
or an infectious waste treatment facility under that chapter who 29479
fails to pay the permit fee to the director in compliance with 29480
division (V) of this section shall pay an additional ten per cent 29481
of the amount of the fee for each week that the permit fee is 29482
late. 29483

Permit and late payment fees paid to the director under this 29484
division shall be credited to the general revenue fund. 29485

(R)(1) A person issued a registration certificate for a scrap 29486
tire collection facility under section 3734.75 of the Revised Code 29487
shall pay a fee of two hundred dollars, except that if the 29488
facility is owned or operated by a motor vehicle salvage dealer 29489
licensed under Chapter 4738. of the Revised Code, the person shall 29490
pay a fee of twenty-five dollars. 29491

(2) A person issued a registration certificate for a new 29492
scrap tire storage facility under section 3734.76 of the Revised 29493
Code shall pay a fee of three hundred dollars, except that if the 29494
facility is owned or operated by a motor vehicle salvage dealer 29495
licensed under Chapter 4738. of the Revised Code, the person shall 29496
pay a fee of twenty-five dollars. 29497

(3) A person issued a permit for a scrap tire storage 29498
facility under section 3734.76 of the Revised Code shall pay a fee 29499
of one thousand dollars, except that if the facility is owned or 29500
operated by a motor vehicle salvage dealer licensed under Chapter 29501
4738. of the Revised Code, the person shall pay a fee of fifty 29502
dollars. 29503

(4) A person issued a permit for a scrap tire monocell or 29504

monofill facility under section 3734.77 of the Revised Code shall 29505
pay a fee of ten dollars per thousand cubic yards of disposal 29506
capacity or one thousand dollars, whichever is greater, except 29507
that the total fee for any such permit shall not exceed eighty 29508
thousand dollars. 29509

(5) A person issued a registration certificate for a scrap 29510
tire recovery facility under section 3734.78 of the Revised Code 29511
shall pay a fee of one hundred dollars. 29512

(6) A person issued a permit for a scrap tire recovery 29513
facility under section 3734.78 of the Revised Code shall pay a fee 29514
of one thousand dollars. 29515

(7) In addition to the applicable registration certificate or 29516
permit fee under divisions (R)(1) to (6) of this section, a person 29517
issued a registration certificate or permit for any such scrap 29518
tire facility who fails to pay the registration certificate or 29519
permit fee to the director in compliance with division (V) of this 29520
section shall pay an additional ten per cent of the amount of the 29521
fee for each week that the fee is late. 29522

(8) The registration certificate, permit, and late payment 29523
fees paid to the director under divisions (R)(1) to (7) of this 29524
section shall be credited to the scrap tire management fund 29525
created in section 3734.82 of the Revised Code. 29526

(S)(1) Except as provided by divisions (L), (M), (N), (O), 29527
(P), and (S)(2) of this section, division (A)(2) of section 29528
3734.05 of the Revised Code, section 3734.79 of the Revised Code, 29529
and rules adopted under division (T)(1) of this section, any 29530
person applying for a registration certificate under section 29531
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 29532
variance, or plan approval under Chapter 3734. of the Revised Code 29533
shall pay a nonrefundable fee of fifteen dollars at the time the 29534
application is submitted. 29535

Except as otherwise provided, any person applying for a permit, variance, or plan approval under Chapter 6109. or 6111. of the Revised Code shall pay a nonrefundable fee of one hundred dollars at the time the application is submitted through June 30, ~~2004~~ 2006, and a nonrefundable fee of fifteen dollars at the time the application is submitted on and after July 1, ~~2004~~ 2006. Through June 30, ~~2004~~ 2006, any person applying for a national pollutant discharge elimination system permit under Chapter 6111. of the Revised Code shall pay a nonrefundable fee of two hundred dollars at the time of application for the permit. On and after July 1, ~~2004~~ 2006, such a person shall pay a nonrefundable fee of fifteen dollars at the time of application.

In addition to the application fee established under division (S)(1) of this section, any person applying for a national pollutant discharge elimination system general storm water construction permit shall pay a nonrefundable fee of twenty dollars per acre for each acre that is permitted above five acres at the time the application is submitted. However, the per acreage fee shall not exceed three hundred dollars. In addition, any person applying for a national pollutant discharge elimination system general storm water industrial permit shall pay a nonrefundable fee of one hundred fifty dollars at the time the application is submitted.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the

Revised Code. 29568

If a registration certificate is issued under section 29569
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 29570
the application fee paid shall be deducted from the amount of the 29571
registration certificate fee due under division (R)(1), (2), or 29572
(5) of this section, as applicable. 29573

If a person submits an electronic application for a 29574
registration certificate, permit, variance, or plan approval for 29575
which an application fee is established under division (S)(1) of 29576
this section, the person shall pay the applicable application fee 29577
as expeditiously as possible after the submission of the 29578
electronic application. An application for a registration 29579
certificate, permit, variance, or plan approval for which an 29580
application fee is established under division (S)(1) of this 29581
section shall not be reviewed or processed until the applicable 29582
application fee, and any other fees established under this 29583
division, are paid. 29584

(2) Division (S)(1) of this section does not apply to an 29585
application for a registration certificate for a scrap tire 29586
collection or storage facility submitted under section 3734.75 or 29587
3734.76 of the Revised Code, as applicable, if the owner or 29588
operator of the facility or proposed facility is a motor vehicle 29589
salvage dealer licensed under Chapter 4738. of the Revised Code. 29590

(T) The director may adopt, amend, and rescind rules in 29591
accordance with Chapter 119. of the Revised Code that do all of 29592
the following: 29593

(1) Prescribe fees to be paid by applicants for and holders 29594
of any license, permit, variance, plan approval, or certification 29595
required or authorized by Chapter 3704., 3734., 6109., or 6111. of 29596
the Revised Code that are not specifically established in this 29597
section. The fees shall be designed to defray the cost of 29598

processing, issuing, revoking, modifying, denying, and enforcing 29599
the licenses, permits, variances, plan approvals, and 29600
certifications. 29601

The director shall transmit all moneys collected under rules 29602
adopted under division (T)(1) of this section pursuant to Chapter 29603
6109. of the Revised Code to the treasurer of state for deposit 29604
into the drinking water protection fund created in section 6109.30 29605
of the Revised Code. 29606

The director shall transmit all moneys collected under rules 29607
adopted under division (T)(1) of this section pursuant to Chapter 29608
6111. of the Revised Code to the treasurer of state for deposit 29609
into the surface water protection fund created in section 6111.038 29610
of the Revised Code. 29611

(2) Exempt the state and political subdivisions thereof, 29612
including education facilities or medical facilities owned by the 29613
state or a political subdivision, or any person exempted from 29614
taxation by section 5709.07 or 5709.12 of the Revised Code, from 29615
any fee required by this section; 29616

(3) Provide for the waiver of any fee, or any part thereof, 29617
otherwise required by this section whenever the director 29618
determines that the imposition of the fee would constitute an 29619
unreasonable cost of doing business for any applicant, class of 29620
applicants, or other person subject to the fee; 29621

(4) Prescribe measures that the director considers necessary 29622
to carry out this section. 29623

(U) When the director reasonably demonstrates that the direct 29624
cost to the state associated with the issuance of a permit to 29625
install, license, variance, plan approval, or certification 29626
exceeds the fee for the issuance or review specified by this 29627
section, the director may condition the issuance or review on the 29628
payment by the person receiving the issuance or review of, in 29629

addition to the fee specified by this section, the amount, or any 29630
portion thereof, in excess of the fee specified under this 29631
section. The director shall not so condition issuances for which 29632
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 29633
section. 29634

(V) Except as provided in divisions (L), (M), and (P) of this 29635
section or unless otherwise prescribed by a rule of the director 29636
adopted pursuant to Chapter 119. of the Revised Code, all fees 29637
required by this section are payable within thirty days after the 29638
issuance of an invoice for the fee by the director or the 29639
effective date of the issuance of the license, permit, variance, 29640
plan approval, or certification. If payment is late, the person 29641
responsible for payment of the fee shall pay an additional ten per 29642
cent of the amount due for each month that it is late. 29643

(W) As used in this section, "fuel-burning equipment," 29644
"fuel-burning equipment input capacity," "incinerator," 29645
"incinerator input capacity," "process," "process weight rate," 29646
"storage tank," "gasoline dispensing facility," "dry cleaning 29647
facility," "design flow discharge," and "new source treatment 29648
works" have the meanings ascribed to those terms by applicable 29649
rules or standards adopted by the director under Chapter 3704. or 29650
6111. of the Revised Code. 29651

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), 29652
and (J) of this section, and in any other provision of this 29653
section pertaining to fees paid pursuant to Chapter 3704. of the 29654
Revised Code: 29655

(1) "Facility," "federal Clean Air Act," "person," and "Title 29656
V permit" have the same meanings as in section 3704.01 of the 29657
Revised Code. 29658

(2) "Title V permit program" means the following activities 29659
as necessary to meet the requirements of Title V of the federal 29660

Clean Air Act and 40 C.F.R. part 70, including at least:	29661
(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;	29662 29663 29664
(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal;	29665 29666 29667 29668
(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;	29669 29670 29671
(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including any court actions or other formal enforcement actions;	29672 29673 29674
(e) Emission and ambient monitoring;	29675
(f) Modeling, analyses, or demonstrations;	29676
(g) Preparing inventories and tracking emissions;	29677
(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the Revised Code.	29678 29679 29680 29681 29682 29683 29684
(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) of this section, each sewage sludge facility shall pay a nonrefundable annual sludge fee equal to three dollars and fifty cents per dry ton of sewage sludge, including the dry tons of sewage sludge in materials derived from sewage sludge, that the sewage sludge facility treats or disposes of in this state. The	29685 29686 29687 29688 29689 29690

annual volume of sewage sludge treated or disposed of by a sewage 29691
sludge facility shall be calculated using the first day of January 29692
through the thirty-first day of December of the calendar year 29693
preceding the date on which payment of the fee is due. 29694

(2)(a) Except as provided in division (Y)(2)(d) of this 29695
section, each sewage sludge facility shall pay a minimum annual 29696
sewage sludge fee of one hundred dollars. 29697

(b) The annual sludge fee required to be paid by a sewage 29698
sludge facility that treats or disposes of exceptional quality 29699
sludge in this state shall be thirty-five per cent less per dry 29700
ton of exceptional quality sludge than the fee assessed under 29701
division (Y)(1) of this section, subject to the following 29702
exceptions: 29703

(i) Except as provided in division (Y)(2)(d) of this section, 29704
a sewage sludge facility that treats or disposes of exceptional 29705
quality sludge shall pay a minimum annual sewage sludge fee of one 29706
hundred dollars. 29707

(ii) A sewage sludge facility that treats or disposes of 29708
exceptional quality sludge shall not be required to pay the annual 29709
sludge fee for treatment or disposal in this state of exceptional 29710
quality sludge generated outside of this state and contained in 29711
bags or other containers not greater than one hundred pounds in 29712
capacity. 29713

A thirty-five per cent reduction for exceptional quality 29714
sludge applies to the maximum annual fees established under 29715
division (Y)(3) of this section. 29716

(c) A sewage sludge facility that transfers sewage sludge to 29717
another sewage sludge facility in this state for further treatment 29718
prior to disposal in this state shall not be required to pay the 29719
annual sludge fee for the tons of sewage sludge that have been 29720
transferred. In such a case, the sewage sludge facility that 29721

disposes of the sewage sludge shall pay the annual sludge fee. 29722
However, the facility transferring the sewage sludge shall pay the 29723
one-hundred-dollar minimum fee required under division (Y)(2)(a) 29724
of this section. 29725

In the case of a sewage sludge facility that treats sewage 29726
sludge in this state and transfers it out of this state to another 29727
entity for disposal, the sewage sludge facility in this state 29728
shall be required to pay the annual sludge fee for the tons of 29729
sewage sludge that have been transferred. 29730

(d) A sewage sludge facility that generates sewage sludge 29731
resulting from an average daily discharge flow of less than five 29732
thousand gallons per day is not subject to the fees assessed under 29733
division (Y) of this section. 29734

(3) No sewage sludge facility required to pay the annual 29735
sludge fee shall be required to pay more than the maximum annual 29736
fee for each disposal method that the sewage sludge facility uses. 29737
The maximum annual fee does not include the additional amount that 29738
may be charged under division (Y)(5) of this section for late 29739
payment of the annual sludge fee. The maximum annual fee for the 29740
following methods of disposal of sewage sludge is as follows: 29741

(a) Incineration: five thousand dollars; 29742

(b) Preexisting land reclamation project or disposal in a 29743
landfill: five thousand dollars; 29744

(c) Land application, land reclamation, surface disposal, or 29745
any other disposal method not specified in division (Y)(3)(a) or 29746
(b) of this section: twenty thousand dollars. 29747

(4)(a) In the case of an entity that generates sewage sludge 29748
or a sewage sludge facility that treats sewage sludge and 29749
transfers the sewage sludge to an incineration facility for 29750
disposal, the incineration facility, and not the entity generating 29751
the sewage sludge or the sewage sludge facility treating the 29752

sewage sludge, shall pay the annual sludge fee for the tons of 29753
sewage sludge that are transferred. However, the entity or 29754
facility generating or treating the sewage sludge shall pay the 29755
one-hundred-dollar minimum fee required under division (Y)(2)(a) 29756
of this section. 29757

(b) In the case of an entity that generates sewage sludge and 29758
transfers the sewage sludge to a landfill for disposal or to a 29759
sewage sludge facility for land reclamation or surface disposal, 29760
the entity generating the sewage sludge, and not the landfill or 29761
sewage sludge facility, shall pay the annual sludge fee for the 29762
tons of sewage sludge that are transferred. 29763

(5) Not later than the first day of April of the calendar 29764
year following March 17, 2000, and each first day of April 29765
thereafter, the director shall issue invoices to persons who are 29766
required to pay the annual sludge fee. The invoice shall identify 29767
the nature and amount of the annual sludge fee assessed and state 29768
the first day of May as the deadline for receipt by the director 29769
of objections regarding the amount of the fee and the first day of 29770
July as the deadline for payment of the fee. 29771

Not later than the first day of May following receipt of an 29772
invoice, a person required to pay the annual sludge fee may submit 29773
objections to the director concerning the accuracy of information 29774
regarding the number of dry tons of sewage sludge used to 29775
calculate the amount of the annual sludge fee or regarding whether 29776
the sewage sludge qualifies for the exceptional quality sludge 29777
discount established in division (Y)(2)(b) of this section. The 29778
director may consider the objections and adjust the amount of the 29779
fee to ensure that it is accurate. 29780

If the director does not adjust the amount of the annual 29781
sludge fee in response to a person's objections, the person may 29782
appeal the director's determination in accordance with Chapter 29783
119. of the Revised Code. 29784

Not later than the first day of June, the director shall 29785
notify the objecting person regarding whether the director has 29786
found the objections to be valid and the reasons for the finding. 29787
If the director finds the objections to be valid and adjusts the 29788
amount of the annual sludge fee accordingly, the director shall 29789
issue with the notification a new invoice to the person 29790
identifying the amount of the annual sludge fee assessed and 29791
stating the first day of July as the deadline for payment. 29792

Not later than the first day of July, any person who is 29793
required to do so shall pay the annual sludge fee. Any person who 29794
is required to pay the fee, but who fails to do so on or before 29795
that date shall pay an additional amount that equals ten per cent 29796
of the required annual sludge fee. 29797

(6) The director shall transmit all moneys collected under 29798
division (Y) of this section to the treasurer of state for deposit 29799
into the surface water protection fund created in section 6111.038 29800
of the Revised Code. The moneys shall be used to defray the costs 29801
of administering and enforcing provisions in Chapter 6111. of the 29802
Revised Code and rules adopted under it that govern the use, 29803
storage, treatment, or disposal of sewage sludge. 29804

(7) Beginning in fiscal year 2001, and every two years 29805
thereafter, the director shall review the total amount of moneys 29806
generated by the annual sludge fees to determine if that amount 29807
exceeded six hundred thousand dollars in either of the two 29808
preceding fiscal years. If the total amount of moneys in the fund 29809
exceeded six hundred thousand dollars in either fiscal year, the 29810
director, after review of the fee structure and consultation with 29811
affected persons, shall issue an order reducing the amount of the 29812
fees levied under division (Y) of this section so that the 29813
estimated amount of moneys resulting from the fees will not exceed 29814
six hundred thousand dollars in any fiscal year. 29815

If, upon review of the fees under division (Y)(7) of this section and after the fees have been reduced, the director determines that the total amount of moneys collected and accumulated is less than six hundred thousand dollars, the director, after review of the fee structure and consultation with affected persons, may issue an order increasing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will be approximately six hundred thousand dollars. Fees shall never be increased to an amount exceeding the amount specified in division (Y)(7) of this section.

Notwithstanding section 119.06 of the Revised Code, the director may issue an order under division (Y)(7) of this section without the necessity to hold an adjudicatory hearing in connection with the order. The issuance of an order under this division is not an act or action for purposes of section 3745.04 of the Revised Code.

(8) As used in division (Y) of this section:

(a) "Sewage sludge facility" means an entity that performs treatment on or is responsible for the disposal of sewage sludge.

(b) "Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.

(c) "Exceptional quality sludge" means sewage sludge that

meets all of the following qualifications:	29847
(i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a);	29848 29849
(ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);	29850 29851
(iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;	29852 29853
(iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.	29854 29855
(d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge.	29856 29857 29858
(e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator.	29859 29860 29861
(f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil.	29862 29863 29864 29865 29866
(g) "Land reclamation" means the returning of disturbed land to productive use.	29867 29868
(h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites.	29869 29870 29871 29872
(i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.	29873 29874 29875 29876

(j) "Incineration facility" includes all incinerators owned 29877
or operated by the same entity and located on a contiguous tract 29878
of land. Areas of land are considered to be contiguous even if 29879
they are separated by a public road or highway. 29880

(k) "Annual sludge fee" means the fee assessed under division 29881
(Y)(1) of this section. 29882

(l) "Landfill" means a sanitary landfill facility, as defined 29883
in rules adopted under section 3734.02 of the Revised Code, that 29884
is licensed under section 3734.05 of the Revised Code. 29885

(m) "Preexisting land reclamation project" means a 29886
property-specific land reclamation project that has been in 29887
continuous operation for not less than five years pursuant to 29888
approval of the activity by the director and includes the 29889
implementation of a community outreach program concerning the 29890
activity. 29891

Sec. 3745.14. (A) As used in this section: 29892

(1) "Compliance review" means the review of an application 29893
for a permit, renewal of a permit, or plan approval, or 29894
modification thereof, for an existing or proposed facility, 29895
source, or activity and the accompanying engineering plans, 29896
specifications, and materials and information that are submitted 29897
under Chapter 3704., 3734., 6109., or 6111. of the Revised Code 29898
and rules adopted under them for compliance with performance 29899
standards under the applicable chapter and rules adopted under it. 29900
"Compliance review" does not include the review of an application 29901
for a hazardous waste facility installation and operation permit 29902
or the renewal or modification of such a permit, a permit to 29903
establish or modify an infectious waste treatment facility, a 29904
permit to install a solid waste incineration facility that also 29905
would treat infectious wastes, or a permit to modify a solid waste 29906

incineration facility to also treat infectious wastes under 29907
Chapter 3734. of the Revised Code. 29908

(2) "Engineer" includes both of the following: 29909

(a) A professional engineer registered under Chapter 4733. of 29910
the Revised Code; 29911

(b) A firm, partnership, association, or corporation 29912
providing engineering services in this state in compliance with 29913
Chapter 4733. of the Revised Code. 29914

(B) The director of environmental protection, in accordance 29915
with Chapter 119. of the Revised Code, shall adopt, and may amend 29916
and rescind, rules establishing a program for the certification of 29917
engineers to conduct compliance reviews. The rules, at a minimum, 29918
shall do all of the following: 29919

(1) Require that the program be administered by the director; 29920

(2) Establish eligibility criteria for certification to 29921
conduct compliance reviews; 29922

(3) Establish criteria for denying, suspending, and revoking 29923
certifications and renewals of certifications issued pursuant to 29924
rules adopted under division (B) of this section; 29925

(4) Require the periodic renewal of certifications issued 29926
pursuant to rules adopted under division (B) of this section; 29927

(5) Establish an application fee and fee for issuance for 29928
certifications under this section. The fees shall be established 29929
at a level calculated to defray the costs to the environmental 29930
protection agency for administering the certification program 29931
established by rules adopted under division (B) of this section. 29932
All such application and certification fees received by the 29933
director shall be deposited into the state treasury to the credit 29934
of the permit review fund created in division (E) of this section. 29935

(C) The director shall maintain a current list of all 29936

engineers who are certified to conduct compliance reviews pursuant 29937
to rules adopted under this section. The list shall indicate the 29938
types of permits, permit renewals, and plan approvals that each 29939
engineer is certified to review and the types or categories of 29940
facilities, sources, or activities in connection with which the 29941
engineer is certified to conduct the reviews. Upon request, the 29942
director shall provide a copy of the list to anyone requesting it. 29943

(D) An applicant for a permit, renewal of a permit, plan 29944
approval, or modification thereof, under Chapter 3704., 3734., 29945
6109., or 6111. of the Revised Code and applicable rules adopted 29946
under them, other than a hazardous waste facility installation and 29947
operation permit or renewal or modification of such a permit, a 29948
permit to establish or modify an infectious waste treatment 29949
facility, a permit to install a solid waste incineration facility 29950
that also would treat infectious wastes, or a permit to modify a 29951
solid waste incineration facility to also treat infectious wastes 29952
under Chapter 3734. of the Revised Code, may submit a written 29953
request to the director to have the compliance review conducted by 29954
an engineer certified under this section. The request shall 29955
accompany the permit application, shall indicate the applicant's 29956
choice from among the certified engineers on the director's list 29957
who are qualified to conduct the compliance review, shall be 29958
accompanied by separate certifications by the applicant and the 29959
engineer indicating that the applicant does not have and has not 29960
had during the preceding two years a financial interest in the 29961
engineer and has not employed or retained the engineer to perform 29962
services for the applicant during the preceding two years, and may 29963
be accompanied by a draft proposal for conducting the compliance 29964
review that was developed by the applicant and the engineer. No 29965
such draft proposal is binding upon the director. 29966

Within seven days after receiving a request under this 29967
division, the director shall do all of the following, as 29968

appropriate: 29969

(1) In the director's discretion, approve or disapprove the 29970
applicant's request to have the compliance review of the 29971
application conducted by an engineer on the list of certified 29972
engineers prepared under this section; 29973

(2) If the director approves the conducting of the compliance 29974
review by such a certified engineer, approve or disapprove, in the 29975
director's discretion, the applicant's choice of the engineer; 29976

(3) Mail written notice of decisions made under divisions 29977
(D)(1) and (2) of this section to the applicant. 29978

If the director fails to mail notice of the director's 29979
decisions on the request to the applicant within seven days after 29980
receiving the request, it is conclusively presumed that the 29981
director approved the applicant's request to have the compliance 29982
review conducted by a certified engineer and the applicant's 29983
choice of the engineer, and the director shall enter into a 29984
contract with the engineer chosen by the applicant. If the 29985
director disapproves the applicant's choice of an engineer and 29986
provides timely notice of the disapproval to the applicant, the 29987
director and applicant, by mutual agreement, shall select another 29988
engineer from the list prepared under this section to conduct the 29989
compliance review, and the director shall enter into a contract 29990
with that engineer. 29991

(E) The director may enter into contracts for conducting 29992
performance reviews under division (D) of this section without 29993
advertising for bids. The commencement of any work under such a 29994
contract shall be contingent upon the director's receipt of 29995
payment from the applicant of an amount that is equal to one 29996
hundred ten per cent of the amount specified in the contract, 29997
excluding contingencies for any additional work that may be needed 29998
to properly complete the review and that was not anticipated when 29999

the contract was made. Moneys received by the director from an 30000
applicant shall be deposited into the permit review fund, which is 30001
hereby created in the state treasury. The director shall use 30002
moneys in the fund to pay the cost of compliance reviews conducted 30003
pursuant to contracts entered into under division (D) of this 30004
section and to administer the certification program established 30005
under division (B) of this section. The director may use any 30006
moneys in the fund not needed for those purposes to administer the 30007
environmental laws or programs of this state. 30008

If, while conducting a compliance review, the engineer finds 30009
that work in addition to that upon which the cost under the 30010
contract was based, or any additional work previously authorized 30011
under this division, is needed to properly review the application 30012
and accompanying information for compliance with the applicable 30013
performance standards, the engineer shall notify the director of 30014
that fact and of the cost of the additional work, as determined 30015
pursuant to the terms of the contract. If the director finds that 30016
the additional work is needed and that the costs of performing the 30017
work have been determined in accordance with the terms of the 30018
contract, the director shall authorize the contractor to perform 30019
the work. Upon completion of the additional work, the contractor 30020
shall submit to the director an invoice for the cost of performing 30021
the additional work, and the director shall forward a copy of the 30022
invoice to the applicant. The applicant is liable to the state for 30023
an amount equal to one hundred ten per cent of the cost of 30024
performing the additional work and, within thirty days after 30025
receiving a copy of the invoice, shall pay to the director an 30026
amount equal to one hundred ten per cent of the amount indicated 30027
on the invoice. Upon receiving this payment, the director shall 30028
forward the moneys to the treasurer of state, who shall deposit 30029
them into the state treasury to the credit of the permit review 30030
fund. 30031

Until the applicant pays to the director the amount due in 30032
connection with the additional work, the director shall not issue 30033
to the applicant any permit, renewal of a permit, or plan 30034
approval, or modification thereof, for which an application is 30035
pending before the director. The director also may certify the 30036
unpaid amount to the attorney general and request that the 30037
attorney general bring a civil action against the applicant to 30038
recover that amount. Any moneys so recovered shall be deposited 30039
into the state treasury to the credit of the permit review fund. 30040

(F) Upon completing a compliance review conducted under this 30041
section, the engineer shall make a certification to the director 30042
as to whether the existing or proposed facility, source, activity, 30043
or modification will comply with the applicable performance 30044
standards. If the certification indicates that the existing or 30045
proposed facility, source, activity, or modification will not 30046
comply, the engineer shall include in the certification the 30047
engineer's findings as to the causes of the noncompliance. 30048

(G) When a compliance review is conducted by an engineer 30049
certified under this section, the other activities in connection 30050
with the consideration, approval, and issuance of the permit, 30051
renewal of the permit, or plan approval, or modification thereof, 30052
shall be conducted by the director ~~or, when applicable, the~~ 30053
~~hazardous waste facility board established in section 3734.05 of~~ 30054
~~the Revised Code,~~ in accordance with the applicable provisions of 30055
Chapter 3704., 3734., 6109., or 6111. of the Revised Code and 30056
rules adopted under the applicable chapter. 30057

(H) All expenses incurred by the attorney general in bringing 30058
a civil action under this section shall be reimbursed from the 30059
permit review fund in accordance with Chapter 109. of the Revised 30060
Code. 30061

Sec. 3745.15. Notwithstanding any provision of Chapter 3704., 30062

3734., 3746., or 6111. of the Revised Code to the contrary, not 30063
later than one hundred twenty days after receipt of an application 30064
for a permit under any of those chapters, the director of 30065
environmental protection shall either issue or deny the permit. 30066
The director shall send written notification to the applicant of 30067
the issuance or denial. 30068

The director may extend the period for issuing or denying the 30069
permit for an additional forty-five days if the director sends the 30070
applicant written notice that specifies the reasons for not 30071
issuing or denying the permit within the one-hundred-twenty-day 30072
period and provides an explanation of the review that remains to 30073
be completed in order to issue or deny the permit within the 30074
additional forty-five-day period. If the director fails to 30075
complete the review within that forty-five-day period, the 30076
director may request a final extension from the applicant of not 30077
more than forty-five days. If the applicant does not agree to such 30078
an extension, or if the director fails to issue or deny the permit 30079
by the end of the one-hundred-twenty-day period or any additional 30080
forty-five-day period, as applicable, the application is deemed 30081
approved, and the director shall issue the permit. The director 30082
shall send written notification to the applicant of the issuance. 30083

Sec. 3745.40. (A) There is hereby created the clean Ohio 30084
operating fund consisting of moneys credited to the fund in 30085
accordance with this section. The fund shall be used to pay the 30086
costs incurred by the director of environmental protection 30087
pursuant to sections 122.65 to 122.658 of the Revised Code. 30088
Investment earnings of the fund shall be credited to the fund. ~~For~~ 30089
~~two years after the effective date of this section, investment~~ 30090
~~earnings credited to the fund~~ and may be used to pay 30091
administrative costs incurred by the director pursuant to those 30092
sections. 30093

(B) Notwithstanding section 3746.16 of the Revised Code, upon the request of the director of environmental protection, the director of development shall certify to the director of budget and management the amount of excess investment earnings that are available to be transferred from the clean Ohio revitalization fund created in section 122.658 of the Revised Code to the clean Ohio operating fund. Upon certification, the director of budget and management may transfer from the clean Ohio revitalization fund to the clean Ohio operating fund an amount not exceeding the amount of the annual appropriation to the clean Ohio operating fund.

Sec. 3746.02. (A) Nothing in this chapter applies to any of the following:

(1) Property for which a voluntary action under this chapter is precluded by federal law or regulations adopted under federal law, including, without limitation, any of the following federal laws or regulations adopted thereunder:

(a) The "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended;

(b) The "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended;

(c) The "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended;

(d) The "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as amended;

(e) The "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended.

(2) Those portions of property where closure of a hazardous waste facility or solid waste facility is required under Chapter

3734. of the Revised Code or rules adopted under it; 30124

(3) Property or properties regardless of ownership that are 30125
subject to remediation rules adopted under the authority of the 30126
division of fire marshal in the department of ~~commerce, including~~ 30127
public safety or under the authority of the superintendent of 30128
industrial compliance under remediation rules adopted under 30129
sections 3737.88, 3737.882, and 3737.889 of the Revised Code; 30130

(4) Property that is subject to Chapter 1509. of the Revised 30131
Code; 30132

(5) Any other property if the director of environmental 30133
protection has issued a letter notifying the owner or operator of 30134
the property that ~~he~~ the director will issue an enforcement order 30135
under Chapter 3704., 3734., or 6111. of the Revised Code, a 30136
release or threatened release of a hazardous substance or 30137
petroleum from or at the property poses a substantial threat to 30138
public health or safety or the environment, and the person subject 30139
to the order does not present sufficient evidence to the director 30140
that ~~he~~ the person has entered into the voluntary action program 30141
under this chapter and is proceeding expeditiously to address that 30142
threat. For the purposes of this division, the evidence 30143
constituting sufficient evidence of entry into the voluntary 30144
action program under this chapter shall be defined by the director 30145
by rules adopted under section 3746.04 of the Revised Code. Until 30146
such time as the director has adopted those rules, the director, 30147
at a minimum, shall consider the existence of a contract with a 30148
certified professional to appropriately respond to the threat 30149
named in the director's letter informing the person of ~~his~~ the 30150
director's intent to issue an enforcement order and the 30151
availability of financial resources to complete the contract to be 30152
sufficient evidence of entry into the program. 30153

(B) The application of any provision of division (A) of this 30154
section to a portion of property does not preclude participation 30155

in the voluntary action program under this chapter in connection 30156
with other portions of the property where those provisions do not 30157
apply. 30158

(C) As used in this section, "property" means any parcel of 30159
real property, or portion thereof, and any improvements thereto. 30160

Sec. 3746.13. (A) For property that does not involve the 30161
issuance of a consolidated standards permit under section 3746.15 30162
of the Revised Code and where no engineering or institutional 30163
controls are used to comply with applicable standards, the 30164
director of environmental protection shall issue a covenant not to 30165
sue pursuant to section 3746.12 of the Revised Code by issuance of 30166
an order as a final action under Chapter 3745. of the Revised Code 30167
within thirty days after the director receives the no further 30168
action letter for the property and accompanying verification from 30169
the certified professional who prepared the letter under section 30170
3746.11 of the Revised Code. 30171

(B) For property that involves the issuance of a consolidated 30172
standards permit under section 3746.15 of the Revised Code or 30173
where engineering or institutional controls are used to comply 30174
with applicable standards, the director shall issue a covenant not 30175
to sue by issuance of an order as a final action under Chapter 30176
3745. of the Revised Code within ninety days after the director 30177
receives the no further action letter for the property and 30178
accompanying verification from the certified professional who 30179
prepared the letter. 30180

(C) Except as provided in division (D) of this section, each 30181
person who is issued a covenant not to sue under this section 30182
shall pay the fee established pursuant to rules adopted under 30183
division (B)(8) of section 3746.04 of the Revised Code. Until 30184
those rules become effective, each person who is issued a covenant 30185
not to sue shall pay a fee of two thousand dollars. The fee shall 30186

be paid to the director at the time that the no further action 30187
letter and accompanying verification are submitted to the 30188
director. 30189

(D) An applicant, as defined in section 122.65 of the Revised 30190
Code, who has entered into an agreement under section 122.653 of 30191
the Revised Code and who is issued a covenant not to sue under 30192
this section shall not be required to pay the fee for the issuance 30193
of a covenant not to sue established in rules adopted under 30194
division (B)(8) of section 3746.04 of the Revised Code. 30195

Sec. 3748.07. (A) Every facility that proposes to handle 30196
radioactive material or radiation-generating equipment for which 30197
licensure or registration, respectively, by its handler is 30198
required shall apply in writing to the director of health on forms 30199
prescribed and provided by the director for licensure or 30200
registration. Terms and conditions of licenses and certificates of 30201
registration may be amended in accordance with rules adopted under 30202
section 3748.04 of the Revised Code or orders issued by the 30203
director pursuant to section 3748.05 of the Revised Code. 30204

(B) Until rules are adopted under section 3748.04 of the 30205
Revised Code, an application for a certificate of registration 30206
shall be accompanied by a biennial registration fee of ~~one~~ two 30207
hundred ~~sixty~~ dollars. On and after the effective date of those 30208
rules, an applicant for a license, registration certificate, or 30209
renewal of either shall pay the appropriate fee established in 30210
those rules. 30211

All fees collected under this section shall be deposited in 30212
the state treasury to the credit of the general operations fund 30213
created in section 3701.83 of the Revised Code. The fees shall be 30214
used solely to administer and enforce this chapter and rules 30215
adopted under it. 30216

Any fee required under this section that has not been paid 30217

within ninety days after the invoice date shall be assessed at two 30218
times the original invoiced fee. Any fee that has not been paid 30219
within one hundred eighty days after the invoice date shall be 30220
assessed at five times the original invoiced fee. 30221

(C) The director shall grant a license or registration to any 30222
applicant who has paid the required fee and is in compliance with 30223
this chapter and rules adopted under it. 30224

Until rules are adopted under section 3748.04 of the Revised 30225
Code, certificates of registration shall be effective for two 30226
years from the date of issuance. On and after the effective date 30227
of those rules, licenses and certificates of registration shall be 30228
effective for the applicable period established in those rules. 30229
Licenses and certificates of registration shall be renewed in 30230
accordance with the standard renewal procedure established in 30231
Chapter 4745. of the Revised Code. 30232

Sec. 3748.13. (A) The director of health shall inspect 30233
sources of radiation for which licensure or registration by the 30234
handler is required, and the sources' shielding and surroundings, 30235
according to the schedule established in rules adopted under 30236
division (D) of section 3748.04 of the Revised Code. In accordance 30237
with rules adopted under that section, the director shall inspect 30238
all records and operating procedures of handlers that install 30239
sources of radiation and all sources of radiation for which 30240
licensure of radioactive material or registration of 30241
radiation-generating equipment by the handler is required. The 30242
director may make other inspections upon receiving complaints or 30243
other evidence of violation of this chapter or rules adopted under 30244
it. 30245

The director shall require any hospital registered under 30246
division (A) of section 3701.07 of the Revised Code to develop and 30247
maintain a quality assurance program for all sources of 30248

radiation-generating equipment. A certified radiation expert shall 30249
conduct oversight and maintenance of the program and shall file a 30250
report of audits of the program with the director on forms 30251
prescribed by the director. The audit reports shall become part of 30252
the inspection record. 30253

(B) Until rules are adopted under division (A)(8) of section 30254
3748.04 of the Revised Code, a facility shall pay inspection fees 30255
according to the following schedule and categories: 30256

First dental x-ray tube	\$ 94.00 <u>118.00</u>	30257
Each additional dental x-ray tube at the same location	\$ 47.00 <u>59.00</u>	30258
First medical x-ray tube	\$187.00 <u>235.00</u>	30259
Each additional medical x-ray tube at the same location	\$ 94.00 <u>125.00</u>	30260
Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak	\$373.00 <u>466.00</u>	30261
First nonionizing radiation-generating equipment of any kind	\$187.00 <u>235.00</u>	30262
Each additional nonionizing radiation-generating equipment of any kind at the same location	\$ 94.00 <u>125.00</u>	30263
Assembler-maintainer inspection consisting of an inspection of records and operating procedures of handlers that install sources of radiation	\$233.00 <u>291.00</u>	30264

Until rules are adopted under division (A)(8) of section 30265
3748.04 of the Revised Code, the fee for an inspection to 30266
determine whether violations cited in a previous inspection have 30267

been corrected is fifty per cent of the fee applicable under the 30268
schedule in this division. Until those rules are adopted, the fee 30269
for the inspection of a facility that is not licensed or 30270
registered and for which no license or registration application is 30271
pending at the time of inspection is ~~two~~ three hundred ~~ninety~~ 30272
sixty-three dollars plus the fee applicable under the schedule in 30273
this division. 30274

The director may conduct a review of shielding plans or the 30275
adequacy of shielding on the request of a licensee or registrant 30276
or an applicant for licensure or registration or during an 30277
inspection when the director considers a review to be necessary. 30278
Until rules are adopted under division (A)(8) of section 3748.04 30279
of the Revised Code, the fee for the review is ~~four~~ five hundred 30280
~~sixty-six~~ eighty-three dollars for each room where a source of 30281
radiation is used and is in addition to any other fee applicable 30282
under the schedule in this division. 30283

All fees shall be paid to the department of health no later 30284
than thirty days after the invoice for the fee is mailed. Fees 30285
shall be deposited in the general operations fund created in 30286
section 3701.83 of the Revised Code. The fees shall be used solely 30287
to administer and enforce this chapter and rules adopted under it. 30288

Any fee required under this section that has not been paid 30289
within ninety days after the invoice date shall be assessed at two 30290
times the original invoiced fee. Any fee that has not been paid 30291
within one hundred eighty days after the invoice date shall be 30292
assessed at five times the original invoiced fee. 30293

(C) If the director determines that a board of health of a 30294
city or general health district is qualified to conduct 30295
inspections of radiation-generating equipment, the director may 30296
delegate to the board, by contract, the authority to conduct such 30297
inspections. In making a determination of the qualifications of a 30298
board of health to conduct those inspections, the director shall 30299

evaluate the credentials of the individuals who are to conduct the 30300
inspections of radiation-generating equipment and the radiation 30301
detection and measuring equipment available to them for that 30302
purpose. If a contract is entered into, the board shall have the 30303
same authority to make inspections of radiation-generating 30304
equipment as the director has under this chapter and rules adopted 30305
under it. The contract shall stipulate that only individuals 30306
approved by the director as qualified shall be permitted to 30307
inspect radiation-generating equipment under the contract's 30308
provisions. The contract shall provide for such compensation for 30309
services as is agreed to by the director and the board of health 30310
of the contracting health district. The director may reevaluate 30311
the credentials of the inspection personnel and their radiation 30312
detecting and measuring equipment as often as the director 30313
considers necessary and may terminate any contract with the board 30314
of health of any health district that, in the director's opinion, 30315
is not satisfactorily performing the terms of the contract. 30316

(D) The director may enter at all reasonable times upon any 30317
public or private property to determine compliance with this 30318
chapter and rules adopted under it. 30319

Sec. 3770.02. (A) Subject to the advice and consent of the 30320
senate, the governor shall appoint a director of the state lottery 30321
commission who shall serve at the pleasure of the governor. The 30322
director shall devote full time to the duties of the office and 30323
shall hold no other office or employment. The director shall meet 30324
all requirements for appointment as a member of the commission and 30325
shall by experience and training possess management skills that 30326
would equip the director to administer an enterprise of the nature 30327
of a state lottery. The director shall receive an annual salary in 30328
accordance with pay range 48 of section 124.152 of the Revised 30329
Code. 30330

(B)(1) The director shall attend all meetings of the 30331
commission and shall act as its secretary. The director shall keep 30332
a record of all commission proceedings and shall keep the 30333
commission's records, files, and documents at the commission's 30334
principal office. All records of the commission's meetings shall 30335
be available for inspection by any member of the public, upon a 30336
showing of good cause and prior notification to the director. 30337

(2) The director shall be the commission's executive officer 30338
and shall be responsible for keeping all commission records and 30339
supervising and administering the state lottery in accordance with 30340
this chapter, and carrying out all commission rules adopted under 30341
section 3770.03 of the Revised Code. 30342

(C)(1) The director shall appoint an assistant director and 30343
deputy directors of marketing, operations, sales, finance, public 30344
relations, security, and administration, and as many regional 30345
managers as are required. The director may also appoint necessary 30346
professional, technical, and clerical assistants. All such 30347
officers and employees shall be appointed and compensated pursuant 30348
to Chapter 124. of the Revised Code. Regional and assistant 30349
regional managers, sales representatives, and any lottery 30350
executive account representatives shall remain in the unclassified 30351
service. 30352

(2) The director, in consultation with the director of 30353
administrative services, may establish standards of proficiency 30354
and productivity for commission field representatives. 30355

(D) The director shall request the bureau of criminal 30356
identification and investigation, the department of public safety, 30357
or any other state, local, or federal agency to supply the 30358
director with the criminal records of any job applicant and may 30359
periodically request the criminal records of commission employees. 30360
At or prior to the time of making such a request, the director 30361

shall require a job applicant or commission employee to obtain 30362
fingerprint cards prescribed by the superintendent of the bureau 30363
of criminal identification and investigation at a qualified law 30364
enforcement agency, and the director shall cause these fingerprint 30365
cards to be forwarded to the bureau of criminal identification and 30366
investigation and the federal bureau of investigation. The 30367
commission shall assume the cost of obtaining the fingerprint 30368
cards and shall pay to each agency supplying criminal records for 30369
each investigation under this division a reasonable fee, as 30370
determined by the agency. 30371

(E) The director shall license lottery sales agents pursuant 30372
to section 3770.05 of the Revised Code and electronic lottery 30373
sales agents pursuant to section 3770.24 of the Revised Code and, 30374
when it is considered necessary, may revoke or suspend the license 30375
of any ~~lottery sales~~ such agent under this chapter. 30376

(F) The director shall confer at least once each month with 30377
the commission, at which time the director shall advise it 30378
regarding the operation and administration of the lottery. The 30379
director shall make available at the request of the commission all 30380
documents, files, and other records pertaining to the operation 30381
and administration of the lottery. The director shall prepare and 30382
make available to the commission each month a complete and 30383
accurate accounting of lottery revenues, prize money disbursements 30384
and the cost of goods and services awarded as prizes, operating 30385
expenses, and all other relevant financial information, including 30386
an accounting of all transfers made from any lottery funds in the 30387
custody of the treasurer of state to benefit education. 30388

(G) The director may enter into contracts for the operation 30389
or promotion of the lottery pursuant to Chapter 125. of the 30390
Revised Code. The director may enter into agreements to assist 30391
organizations that deal with problem gambling. 30392

(H)(1) Pursuant to rules adopted by the commission under 30393

section 3770.03 of the Revised Code, the director shall require 30394
~~any~~ lottery sales agents licensed under section 3770.05 of the 30395
Revised Code to either mail directly to the commission or deposit 30396
to the credit of the state lottery fund, in banking institutions 30397
designated by the treasurer of state, net proceeds due the 30398
commission as determined by the director, and to file with the 30399
director or the director's designee reports of their receipts and 30400
transactions in the sale of lottery tickets in the form required 30401
by the director. 30402

(2) Pursuant to rules adopted by the commission under Chapter 30403
119. of the Revised Code, the director may impose penalties for 30404
the failure of a sales agent to transfer funds to the commission 30405
in a timely manner. Penalties may include monetary penalties, 30406
immediate suspension or revocation of a license, or any other 30407
penalty the commission adopts by rule. 30408

(I) The director may arrange for any person, or any banking 30409
institution, to perform functions and services in connection with 30410
the operation of the lottery as the director may consider 30411
necessary to carry out this chapter. 30412

(J)(1) As used in this chapter, "statewide joint lottery 30413
game" means a lottery game that the commission sells solely within 30414
this state under an agreement with other lottery jurisdictions to 30415
sell the same lottery game solely within their statewide or other 30416
jurisdictional boundaries. 30417

(2) If the governor directs the director to do so, the 30418
director shall enter into an agreement with other lottery 30419
jurisdictions to conduct statewide joint lottery games. If the 30420
governor signs the agreement personally or by means of an 30421
authenticating officer pursuant to section 107.15 of the Revised 30422
Code, the director then may conduct statewide joint lottery games 30423
under the agreement. 30424

(3) The entire net proceeds from any statewide joint lottery games shall be used to fund elementary, secondary, vocational, and special education programs in this state. 30425
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(4) The commission shall conduct any statewide joint lottery games in accordance with rules it adopts under division (B)(5) of section 3770.03 of the Revised Code. 30428
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Sec. 3770.03. (A) The state lottery commission shall promulgate rules under which ~~a statewide lottery may~~ lotteries, including, but not limited to, games providing immediate prize determinations for individual participants through the use of electronic gaming devices, shall be conducted. The rules shall be promulgated pursuant to Chapter 119. of the Revised Code, except that instant game rules shall be promulgated pursuant to section 111.15 of the Revised Code but are not subject to division (D) of that section. Subjects covered in these rules shall include, but need not be limited to, the following: 30431
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(1) The type of ~~lottery~~ lotteries to be conducted; 30441

(2) The prices of ~~tickets~~ rights to participate in the ~~lottery~~ lotteries; 30442
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(3) The ~~number,~~ nature, and value of prize awards, the manner and frequency of prize ~~drawings~~ determinations, and the manner in which prizes shall be awarded to ~~holders of winning tickets~~ participants. 30444
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(B) The commission shall promulgate rules, in addition to those described in division (A) of this section, pursuant to Chapter 119. of the Revised Code under which ~~a statewide lottery and~~ statewide joint lottery games may, and lotteries, including, but not limited to, games providing immediate prize determinations for individual participants through the use of electronic gaming devices shall, be conducted. Subjects covered in these rules shall 30448
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include, but not be limited to, the following: 30455

(1) The locations at which lottery tickets may be sold and 30456
the manner in which they are to be sold. These rules may authorize 30457
the sale of lottery tickets by commission personnel or other 30458
licensed individuals from traveling show wagons at the state fair, 30459
and at any other expositions the director of the commission 30460
considers acceptable. These rules shall prohibit commission 30461
personnel or other licensed individuals from soliciting from an 30462
exposition the right to sell lottery tickets at that exposition, 30463
but shall allow commission personnel or other licensed individuals 30464
to sell lottery tickets at an exposition if the exposition 30465
requests commission personnel or licensed individuals to do so. 30466
These rules may also address the accessibility of sales agent 30467
locations to commission products in accordance with the "Americans 30468
with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101 30469
et seq. 30470

(2) The manner in which lottery sales revenues are to be 30471
collected, including authorization for the director to impose 30472
penalties for failure by lottery sales agents, or, under section 30473
3770.28 of the Revised Code, by electronic lottery sales agents, 30474
to transfer revenues to the commission in a timely manner; 30475

(3) ~~The~~ Except as provided in section 3770.26 of the Revised 30476
Code, the amount of compensation to be paid licensed lottery sales 30477
agents; 30478

(4) The substantive criteria for the licensing of lottery 30479
sales agents consistent with section 3770.05 of the Revised Code, 30480
and procedures for revoking or suspending their licenses, or the 30481
licenses of electronic lottery sales agents issued under section 30482
3770.24 of the Revised Code, consistent with Chapter 119. of the 30483
Revised Code. If circumstances, such as the nonpayment of funds 30484
owed by a lottery sales agent or electronic lottery sales agent, 30485
or other circumstances related to the public safety, convenience, 30486

or trust, require immediate action, the director may suspend a 30487
license without affording an opportunity for a prior hearing under 30488
section 119.07 of the Revised Code. 30489

(5) Special game rules to implement any agreements signed by 30490
the governor that the director enters into with other lottery 30491
jurisdictions under division (J) of section 3770.02 of the Revised 30492
Code to conduct statewide joint lottery games. The rules shall 30493
require that the entire net proceeds of those games that remain, 30494
after associated operating expenses, prize disbursements, lottery 30495
sales agent bonuses, commissions, and reimbursements, and any 30496
other expenses necessary to comply with the agreements or the 30497
rules are deducted from the gross proceeds of those games, be 30498
transferred to the lottery profits education fund under division 30499
(B) of section 3770.06 of the Revised Code. 30500

~~(C)~~(6) The manner in which lotteries that use electronic 30501
gaming devices under section 3770.22 of the Revised Code must be 30502
conducted and the security, licensing, and enforcement procedures 30503
necessary to ensure the integrity of those lotteries; 30504

(7) Licensing requirements for key gaming employees of 30505
electronic lottery sales agents, as defined in section 3770.21 of 30506
the Revised Code, or agents' contractors that employ key gaming 30507
employees; provided that, the maximum initial or yearly fee for a 30508
license issued by the commission shall not exceed the commission's 30509
cost and expenses of investigation and licensing; 30510

(8) Any other subjects the commission determines are 30511
necessary for the conduct of lotteries under section 3770.22 of 30512
the Revised Code. 30513

(C) Chapter 2915. of the Revised Code does not apply to, 30514
affect, or prohibit lotteries conducted pursuant to this chapter. 30515

(D)(1) The commission may not conduct, directly or in 30516
conjunction with any lottery sales agent or electronic lottery 30517

sales agent, the following live casino table games: 30518

(a) Card games, including poker, blackjack, twenty-one, 30519
casino war, or baccarat, played with persons dealing cards and 30520
participants wagering on outcomes determined by the dealt cards; 30521

(b) Roulette, wheel of fortune, or any other game played with 30522
persons spinning wheels and participants wagering upon outcomes 30523
determined by a spinning wheel; 30524

(c) Craps, mah jong, sic bo, or any other game played with 30525
persons casting or dealing dice, tiles, or similar objects, and 30526
participants wagering on outcomes determined by the location or 30527
appearance of the objects cast. 30528

(2) The commission may conduct lotteries replicating card 30529
games, spinning-wheel games, or cast object games by electronic 30530
gaming devices pursuant to section 3770.22 of the Revised Code. 30531

(E)(1) The commission shall meet with the director at least 30532
once each month and shall convene other meetings at the request of 30533
the chairperson or any five of the members. No action taken by the 30534
commission shall be binding unless at least five of the members 30535
present vote in favor of the action. A written record shall be 30536
made of the proceedings of each meeting and shall be transmitted 30537
forthwith to the governor, the president of the senate, the senate 30538
minority leader, the speaker of the house of representatives, and 30539
the house minority leader. 30540

(2) The director shall present to the commission a report 30541
each month, showing the total revenues, prize disbursements, and 30542
operating expenses of the state lottery for the preceding month. 30543
As soon as practicable after the end of each fiscal year, the 30544
commission shall prepare and transmit to the governor and the 30545
general assembly a report of lottery revenues, prize 30546
disbursements, and operating expenses for the preceding fiscal 30547
year and any recommendations for legislation considered necessary 30548

by the commission. 30549

Sec. 3770.05. (A) As used in this section, "person" means any 30550
person, association, corporation, partnership, club, trust, 30551
estate, society, receiver, trustee, person acting in a fiduciary 30552
or representative capacity, instrumentality of the state or any of 30553
its political subdivisions, or any other combination of 30554
individuals meeting the requirements set forth in this section or 30555
established by rule or order of the commission. 30556

(B) The director of the state lottery commission may license 30557
any person as a lottery sales agent for the sale of lottery 30558
tickets. No license shall be issued to any person or group of 30559
persons to engage in the sale of lottery tickets as the person's 30560
or group's sole occupation or business. 30561

Before issuing any license to a lottery sales agent for the 30562
sale of lottery tickets, the director shall consider the 30563
following: 30564

(1) The financial responsibility and security of the person 30565
and the person's business or activity; 30566

(2) The accessibility of the agent's place of business or 30567
activity to the public; 30568

(3) The sufficiency of existing licensed agents to serve the 30569
public interest; 30570

(4) The volume of expected sales by the applicant; 30571

(5) Any other factors pertaining to the public interest, 30572
convenience, or trust. 30573

(C) Except as otherwise provided in division (F) of this 30574
section, the director shall refuse to grant, or shall suspend or 30575
revoke, a license issued under this section, if the applicant or 30576
licensee: 30577

(1) Has been convicted of a felony, or has been convicted of a crime involving moral turpitude;	30578 30579
(2) Has been convicted of an offense that involves illegal gambling;	30580 30581
(3) Has been found guilty of fraud or misrepresentation in any connection;	30582 30583
(4) Has been found to have violated any rule or order of the commission;	30584 30585
(5) Has been convicted of illegal trafficking in food stamps.	30586
(D) Except as otherwise provided in division (F) of this section, the director shall refuse to grant, or shall suspend or revoke, a license <u>issued under this section</u> , if the applicant or licensee is a corporation:	30587 30588 30589 30590
(1) Any of whose directors, officers, or controlling shareholders have been found guilty of any of the activities specified in divisions (C)(1) to (4) of this section;	30591 30592 30593
(2) In which it appears to the director that, due to the experience, character, or general fitness of any director, officer, or controlling shareholder, the granting of a license as a lottery sales agent would be inconsistent with the public interest, convenience, or trust;	30594 30595 30596 30597 30598
(3) Not the owner or lessee of the business at which it will conduct a lottery sales agency pursuant to the license applied for, or that any person, firm, association, or corporation other than the applicant shares or will share in the profits of the applicant, other than receiving dividends or distributions as a shareholder, or will participate in the management of the affairs of the applicant.	30599 30600 30601 30602 30603 30604 30605
(E)(1) The director shall refuse to grant a license to an applicant and shall revoke a license of a licensee <u>under this</u>	30606 30607

section if the applicant or licensee is or has been convicted of a 30608
violation of division (A) or (C)(1) of section 2913.46 of the 30609
Revised Code. 30610

(2) The director shall refuse to grant a license to an 30611
applicant that is a corporation and shall revoke the license of a 30612
licensee under this section that is a corporation, if the 30613
corporation is or has been convicted of a violation of division 30614
(A) or (C)(1) of ~~a violation of~~ section 2913.46 of the Revised 30615
Code. 30616

(F) The director shall request the bureau of criminal 30617
identification and investigation, the department of public safety, 30618
or any other state, local, or federal agency to supply the 30619
director with the criminal records of any applicant for a lottery 30620
sales agent license, and may periodically request ~~such~~ those 30621
records of any person to whom ~~such~~ a lottery sales agent license 30622
has been issued. At or prior to the time of making such a request, 30623
the director shall require an applicant or licensee to obtain 30624
fingerprint cards prescribed by the superintendent of the bureau 30625
of criminal identification and investigation at a qualified law 30626
enforcement agency, and the director shall cause these fingerprint 30627
cards to be forwarded to the bureau of criminal identification and 30628
investigation and the federal bureau of investigation. The 30629
commission shall assume the cost of obtaining the fingerprint 30630
cards. The director shall pay to each agency supplying ~~such~~ 30631
records for each investigation a reasonable fee, as determined by 30632
the agency. The commission may adopt uniform rules specifying time 30633
periods after which the persons described in divisions (C)(1) to 30634
(4) and (D)(1) to (3) of this section may be issued a license and 30635
establishing requirements for ~~such~~ those persons to seek a court 30636
order to have records sealed in accordance with law. 30637

(G)(1) Each applicant for a lottery sales agent license for 30638
the sale of lottery tickets shall do both of the following: 30639

(a) Pay to the commission a fee of twenty-five dollars upon approval of the application; 30640
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(b) Prior to approval of the application, obtain a surety or, if required, a fidelity bond in an amount to be determined by the director. The bond may be with any company that complies with the bonding and surety laws of this state and the requirements established by rules of the commission pursuant to this chapter. 30642
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(2) A lottery sales agent license for the sale of lottery tickets is effective for one year. A licensed lottery sales agent shall, on or before the date established by the director, renew the agent's license and provide at that time evidence to the director that the surety bond required under division ~~(F)~~(G)(1)(b) of this section has been renewed. The director shall certify to the commission that the applicant for renewal has the required bond. 30647
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The relationship between the state lottery commission and a lottery sales agent is one of trust. A lottery sales agent collects funds on behalf of the commission through the sale of lottery tickets for which the agent receives a compensation. 30655
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(H) Pending a final resolution of any question arising under this section, the director may issue a temporary lottery sales agent license for the sale of lottery tickets, subject to ~~such~~ the terms and conditions ~~as~~ the director may consider appropriate. 30659
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(I) If a lottery sales agent's rental payments for the agent's premises are determined, in whole or in part, by the amount of retail sales the agent makes, and the rental agreement does not expressly provide that the amount of ~~such~~ those retail sales includes the amounts the agent receives from lottery ticket sales, only the amounts the lottery sales agent receives as compensation from the state lottery commission for selling lottery tickets shall be considered to be amounts the agent receives from 30663
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the retail sales the agent makes, for the purpose of computing the 30671
agent's rental payments. 30672

Sec. 3770.05. (A) As used in this section, "person" means any 30673
person, association, corporation, partnership, club, trust, 30674
estate, society, receiver, trustee, person acting in a fiduciary 30675
or representative capacity, instrumentality of the state or any of 30676
its political subdivisions, or any other combination of 30677
individuals meeting the requirements set forth in this section or 30678
established by rule or order of the commission. 30679

(B) The director of the state lottery commission may license 30680
any person as a lottery sales agent for the sale of lottery 30681
tickets. No license shall be issued to any person or group of 30682
persons to engage in the sale of lottery tickets as the person's 30683
or group's sole occupation or business. 30684

Before issuing any license to a lottery sales agent for the 30685
sale of lottery tickets, the director shall consider the 30686
following: 30687

(1) The financial responsibility and security of the person 30688
and the person's business or activity; 30689

(2) The accessibility of the agent's place of business or 30690
activity to the public; 30691

(3) The sufficiency of existing licensed agents to serve the 30692
public interest; 30693

(4) The volume of expected sales by the applicant; 30694

(5) Any other factors pertaining to the public interest, 30695
convenience, or trust. 30696

(C) Except as otherwise provided in division (F) of this 30697
section, the director shall refuse to grant, or shall suspend or 30698
revoke, a license issued under this section, if the applicant or 30699
licensee: 30700

(1) Has been convicted of a felony, or has been convicted of a crime involving moral turpitude; 30701
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(2) Has been convicted of an offense that involves illegal gambling; 30703
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(3) Has been found guilty of fraud or misrepresentation in any connection; 30705
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(4) Has been found to have violated any rule or order of the commission; 30707
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(5) Has been convicted of illegal trafficking in food stamps. 30709

(D) Except as otherwise provided in division (F) of this section, the director shall refuse to grant, or shall suspend or revoke, a license issued under this section, if the applicant or licensee is a corporation: 30710
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(1) Any of whose directors, officers, or controlling shareholders have been found guilty of any of the activities specified in divisions (C)(1) to (4) of this section; 30714
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(2) In which it appears to the director that, due to the experience, character, or general fitness of any director, officer, or controlling shareholder, the granting of a license as a lottery sales agent would be inconsistent with the public interest, convenience, or trust; 30717
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(3) Not the owner or lessee of the business at which it will conduct a lottery sales agency pursuant to the license applied for, or that any person, firm, association, or corporation other than the applicant shares or will share in the profits of the applicant, other than receiving dividends or distributions as a shareholder, or will participate in the management of the affairs of the applicant. 30722
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(E)(1) The director shall refuse to grant a license to an applicant and shall revoke a license of a licensee under this 30729
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section if the applicant or licensee is or has been convicted of a 30731
violation of division (A) or (C)(1) of section 2913.46 of the 30732
Revised Code. 30733

(2) The director shall refuse to grant a license to an 30734
applicant that is a corporation and shall revoke the license of a 30735
licensee under this section that is a corporation, if the 30736
corporation is or has been convicted of a violation of division 30737
(A) or (C)(1) of ~~a violation of~~ section 2913.46 of the Revised 30738
Code. 30739

(F) The director shall request the bureau of criminal 30740
identification and investigation, the department of public safety, 30741
or any other state, local, or federal agency to supply the 30742
director with the criminal records of any applicant for a lottery 30743
sales agent license, and may periodically request ~~such~~ those 30744
records of any person to whom ~~such~~ a lottery sales agent license 30745
has been issued. At or prior to the time of making such a request, 30746
the director shall require an applicant or licensee to obtain 30747
fingerprint cards prescribed by the superintendent of the bureau 30748
of criminal identification and investigation at a qualified law 30749
enforcement agency, and the director shall cause these fingerprint 30750
cards to be forwarded to the bureau of criminal identification and 30751
investigation and the federal bureau of investigation. The 30752
commission shall assume the cost of obtaining the fingerprint 30753
cards. The director shall pay to each agency supplying ~~such~~ 30754
records for each investigation a reasonable fee, as determined by 30755
the agency. The commission may adopt uniform rules specifying time 30756
periods after which the persons described in divisions (C)(1) to 30757
(4) and (D)(1) to (3) of this section may be issued a license and 30758
establishing requirements for ~~such~~ those persons to seek a court 30759
order to have records sealed in accordance with law. 30760

(G)(1) Each applicant for a lottery sales agent license for 30761
the sale of lottery tickets shall do both of the following: 30762

(a) Pay to the commission a fee of twenty-five dollars upon approval of the application; 30763
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(b) Prior to approval of the application, obtain a surety or, if required, a fidelity bond in an amount to be determined by the director. The bond may be with any company that complies with the bonding and surety laws of this state and the requirements established by rules of the commission pursuant to this chapter. 30765
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(2) A lottery sales agent license for the sale of lottery tickets is effective for one year. A licensed lottery sales agent shall, on or before the date established by the director, renew the agent's license and provide at that time evidence to the director that the surety bond required under division ~~(F)~~(G)(1)(b) of this section has been renewed. The director shall certify to the commission that the applicant for renewal has the required bond. 30770
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The relationship between the state lottery commission and a lottery sales agent is one of trust. A lottery sales agent collects funds on behalf of the commission through the sale of lottery tickets for which the agent receives a compensation. 30778
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(H) Pending a final resolution of any question arising under this section, the director may issue a temporary lottery sales agent license for the sale of lottery tickets, subject to ~~such~~ the terms and conditions ~~as~~ the director may consider appropriate. 30782
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(I) If a lottery sales agent's rental payments for the agent's premises are determined, in whole or in part, by the amount of retail sales the agent makes, and the rental agreement does not expressly provide that the amount of ~~such~~ those retail sales includes the amounts the agent receives from lottery ticket sales, only the amounts the lottery sales agent receives as compensation from the state lottery commission for selling lottery tickets shall be considered to be amounts the agent receives from 30786
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the retail sales the agent makes, for the purpose of computing the 30794
agent's rental payments. 30795

Sec. 3770.06. (A) There is hereby created the state lottery 30796
gross revenue fund, which shall be in the custody of the treasurer 30797
of state, but shall not be part of the state treasury. All gross 30798
revenues received from sales of ~~lottery tickets~~ rights to 30799
participate in lotteries, fines, fees, and related proceeds in 30800
connection with the statewide lottery and all gross proceeds from 30801
statewide joint lottery games shall be deposited into the fund. 30802
The treasurer of state shall invest any portion of the fund not 30803
needed for immediate use in the same manner as, and subject to all 30804
provisions of law with respect to the investment of, state funds. 30805
The treasurer of state shall disburse money from the fund on order 30806
of the director of the state lottery commission or the director's 30807
designee. 30808

Except for gross proceeds from statewide joint lottery games, 30809
all revenues of the state lottery gross revenue fund that are not 30810
paid to ~~holders of winning lottery tickets~~ participants, that are 30811
not required to meet short-term prize liabilities, that are not 30812
credited to lottery sales agents or electronic lottery sales 30813
agents in the form of bonuses, commissions, or reimbursements, 30814
that are not necessary for procuring, installing, maintaining, 30815
servicing, operating, repairing, advertising, promoting, and 30816
replacing electronic gaming devices, associated equipment, and 30817
central communications systems under section 3770.27 of the 30818
Revised Code, that are not paid to financial institutions to 30819
reimburse those institutions for sales agent nonsufficient funds, 30820
that are not disbursed under this division to the department of 30821
alcohol and drug addiction services, and that are not collected 30822
from sales agents for remittance to insurers under contract to 30823
provide sales agent bonding services shall be transferred to the 30824
state lottery fund, which is hereby created in the state treasury. 30825

In addition, all revenues of the state lottery gross revenue fund 30826
that represent the gross proceeds from the statewide joint lottery 30827
games and that are not paid to holders of winning lottery tickets, 30828
that are not required to meet short-term prize liabilities, that 30829
are not credited to lottery sales agents in the form of bonuses, 30830
commissions, or reimbursements, and that are not necessary to 30831
cover operating expenses associated with those games or to 30832
otherwise comply with the agreements signed by the governor that 30833
the director enters into under division (J) of section 3770.02 of 30834
the Revised Code or the rules the commission adopts under division 30835
(B)(5) of section 3770.03 of the Revised Code shall be transferred 30836
to the state lottery fund. All investment earnings of the fund 30837
shall be credited to the fund. Moneys shall be disbursed from the 30838
fund pursuant to vouchers approved by the director. Total 30839
disbursements for monetary prize awards to holders of winning 30840
lottery tickets in connection with the statewide lottery and 30841
purchases of goods and services awarded as prizes to holders of 30842
winning lottery tickets shall be of an amount equal to at least 30843
fifty per cent of the total revenue accruing from the sale of 30844
lottery tickets. 30845

(B) Pursuant to Section 6 of Article XV, Ohio Constitution, 30846
there is hereby established in the state treasury the lottery 30847
profits education fund. Whenever, in the judgment of the director 30848
of budget and management, the amount to the credit of the state 30849
lottery fund that does not represent proceeds from statewide joint 30850
lottery games is in excess of that needed to meet the maturing 30851
obligations of the commission and as working capital for its 30852
further operations, the director shall transfer the excess to the 30853
lottery profits education fund in connection with the statewide 30854
lottery. In addition, whenever, in the judgment of the director of 30855
budget and management, the amount to the credit of the state 30856
lottery fund that represents proceeds from statewide joint lottery 30857
games equals the entire net proceeds of those games as described 30858

in division (B)(5) of section 3770.03 of the Revised Code and the 30859
rules adopted under that division, the director shall transfer 30860
those proceeds to the lottery profits education fund. There shall 30861
also be credited to the fund any repayments of moneys loaned from 30862
the educational excellence investment fund. Investment earnings of 30863
the lottery profits education fund shall be credited to the fund. 30864

The lottery profits education fund shall be used solely for 30865
the support of elementary, secondary, vocational, and special 30866
education programs as determined in appropriations made by the 30867
general assembly, or as provided in applicable bond proceedings 30868
for the payment of debt service on obligations issued to pay costs 30869
of capital facilities, including those for a system of common 30870
schools throughout the state pursuant to section 2n of Article 30871
VIII, Ohio Constitution. When determining the availability of 30872
money in the lottery profits education fund, the director of 30873
budget and management may consider all balances and estimated 30874
revenues of the fund. 30875

From the amounts that the director of budget and management 30876
transfers in any fiscal year from the state lottery fund to the 30877
lottery profits education fund, the director shall transfer the 30878
initial ten million dollars of those amounts from the lottery 30879
profits education fund to the school building program bond service 30880
fund created in division (Q) of section 3318.26 of the Revised 30881
Code to be pledged for the purpose of paying bond service charges 30882
as defined in division (C) of section 3318.21 of the Revised Code 30883
on one or more issuances of obligations, which obligations are 30884
issued to provide moneys for the school building program 30885
assistance fund created in section 3318.25 of the Revised Code. 30886

(C) There is hereby established in the state treasury the 30887
deferred prizes trust fund. With the approval of the director of 30888
budget and management, an amount sufficient to fund annuity prizes 30889
shall be transferred from the state lottery fund and credited to 30890

the trust fund. The treasurer of state shall credit all earnings 30891
arising from investments purchased under this division to the 30892
trust fund. Within sixty days after the end of each fiscal year, 30893
the director of budget and management shall certify the amount of 30894
investment earnings necessary to have been credited to the trust 30895
fund during the fiscal year just ending to provide for continued 30896
funding of deferred prizes. Any earnings credited in excess of 30897
this certified amount shall be transferred to the lottery profits 30898
education fund. 30899

To provide all or a part of the amounts necessary to fund 30900
deferred prizes awarded by the commission in connection with the 30901
statewide lottery, the treasurer of state, in consultation with 30902
the commission, may invest moneys contained in the deferred prizes 30903
trust fund ~~which represents~~ that represent proceeds from the 30904
statewide lottery in obligations of the type permitted for the 30905
investment of state funds but whose maturities are thirty years or 30906
less. Notwithstanding the requirements of any other section of the 30907
Revised Code, to provide all or part of the amounts necessary to 30908
fund deferred prizes awarded by the commission in connection with 30909
statewide joint lottery games, the treasurer of state, in 30910
consultation with the commission, may invest moneys in the trust 30911
fund ~~which~~ that represent proceeds derived from the statewide 30912
joint lottery games in accordance with the rules the commission 30913
adopts under division (B)(5) of section 3770.03 of the Revised 30914
Code. Investments of the trust fund are not subject to the 30915
provisions of division (A)(10) of section 135.143 of the Revised 30916
Code limiting to twenty-five per cent the amount of the state's 30917
total average portfolio that may be invested in debt interests and 30918
limiting to one-half of one per cent the amount that may be 30919
invested in debt interests of a single issuer. 30920

All purchases made under this division shall be effected on a 30921
delivery versus payment method and shall be in the custody of the 30922

treasurer of state. 30923

The treasurer of state may retain an investment advisor, if 30924
necessary. The commission shall pay any costs incurred by the 30925
treasurer of state in retaining an investment advisor. 30926

(D) The auditor of state shall conduct annual audits of all 30927
funds and any other audits as the auditor of state or the general 30928
assembly considers necessary. The auditor of state may examine all 30929
records, files, and other documents of the commission, and records 30930
of lottery sales agents, and of electronic lottery sales agents 30931
licensed under section 3770.24 of the Revised Code, that pertain 30932
to their activities as agents, for purposes of conducting 30933
authorized audits. 30934

The state lottery commission shall establish an internal 30935
audit program before the beginning of each fiscal year, subject to 30936
the approval of the auditor of state. At the end of each fiscal 30937
year, the commission shall prepare and submit an annual report to 30938
the auditor of state for the auditor of state's review and 30939
approval, specifying the internal audit work completed by the end 30940
of that fiscal year and reporting on compliance with the annual 30941
internal audit program. The form and content of the report shall 30942
be prescribed by the auditor of state under division (C) of 30943
section 117.20 of the Revised Code. 30944

(E) Whenever, in the judgment of the director of budget and 30945
management, an amount of net state lottery proceeds is necessary 30946
to be applied to the payment of debt service on obligations, all 30947
as defined in sections 151.01 and 151.03 of the Revised Code, the 30948
director shall transfer that amount directly from the state 30949
lottery fund or from the lottery profits education fund to the 30950
bond service fund defined in those sections. The provisions of 30951
this division are subject to any prior pledges or obligation of 30952
those amounts to the payment of bond service charges as defined in 30953
division (C) of section 3318.21 of the Revised Code, as referred 30954

to in division (B) of this section. 30955

Sec. 3770.061. Each month, the director of the lottery 30956
commission shall order the treasurer of state to disburse to the 30957
department of alcohol and drug addiction services money from the 30958
state lottery gross revenue fund in an amount equal to one-half of 30959
one per cent of the gross proceeds attributed to lotteries 30960
conducted under section 3770.22 of the Revised Code during the 30961
preceding month. The department shall use this amount for the 30962
treatment and prevention of problem gambling. 30963

Sec. 3770.07. (A)~~(1)~~ Lottery prize awards shall be claimed by 30964
~~the holder of the winning lottery ticket~~ participants, or by the 30965
executor or administrator, or the trustee of a trust, of the 30966
estate of a deceased holder of a winning ticket, in a manner to be 30967
determined by the state lottery commission, within one hundred 30968
eighty days after the date on which such prize award was announced 30969
if the lottery game is an on-line game, and within one hundred 30970
eighty days after the close of the game if the lottery game is an 30971
instant game. ~~Except as otherwise provided in division (B) of this~~ 30972
~~section, if~~ If no valid claim to the prize award is made within 30973
the prescribed period, the prize money or the cost of goods and 30974
services awarded as prizes, or if such goods or services are 30975
resold by the commission, the proceeds from such sale, shall be 30976
returned to the state lottery fund and distributed in accordance 30977
with section 3770.06 of the Revised Code. 30978

~~(2)~~(B) If a prize winner, as defined in section 3770.10 of 30979
the Revised Code, is under eighteen years of age, or is under some 30980
other legal disability, and the prize money or the cost of goods 30981
or services awarded as a prize exceeds one thousand dollars, the 30982
director shall order that payment be made to the order of the 30983
legal guardian of that prize winner. If the amount of the prize 30984
money or the cost of goods or services awarded as a prize is one 30985

thousand dollars or less, the director may order that payment be 30986
made to the order of the adult member, if any, of that prize 30987
winner's family legally responsible for the care of that prize 30988
winner. 30989

~~(3)~~(C) No right of any prize winner, as defined in section 30990
3770.10 of the Revised Code, to a prize award shall be the subject 30991
of a security interest or used as collateral. 30992

~~(4)~~(a)(D)(1) No right of any prize winner, as defined in 30993
section 3770.10 of the Revised Code, to a prize award shall be 30994
assignable, or subject to garnishment, attachment, execution, 30995
withholding, or deduction, except as follows: as provided in 30996
sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the 30997
Revised Code; when the payment is to be made to the executor or 30998
administrator or the trustee of a trust of the estate of a winning 30999
ticket holder; when the award of a prize is disputed, any person 31000
may be awarded a prize award to which another has claimed title, 31001
pursuant to the order of a court of competent jurisdiction; when 31002
the director is to make a payment pursuant to ~~section~~ sections 31003
3770.071 or 3770.073 of the Revised Code; or as provided in 31004
sections 3770.10 to 3770.14 of the Revised Code. 31005

~~(b)~~(2) The commission shall adopt rules pursuant to section 31006
3770.03 of the Revised Code concerning the payment of prize awards 31007
upon the death of a prize winner. Upon the death of a prize 31008
winner, as defined in section 3770.10 of the Revised Code, the 31009
remainder of the prize winner's prize award, to the extent it is 31010
not subject to a transfer agreement under sections 3770.10 to 31011
3770.14 of the Revised Code, may be paid to the executor, 31012
administrator, or trustee in the form of a discounted lump sum 31013
cash settlement. 31014

~~(5)~~(E) No lottery prize award shall be awarded to or for any 31015
officer or employee of the state lottery commission, any officer 31016
or employee of the auditor of state actively auditing. 31017