

nine of whom shall be voting members and three of whom shall be 37052
nonvoting members. The ~~seven~~ nine voting members shall be 37053
appointed by the governor, with the advice and consent of the 37054
senate, from different geographical regions of the state. In 37055
addition, one of the voting members shall represent the state 37056
architect. Not more than ~~four~~ five of the members appointed by the 37057
governor shall be affiliated with the same political party. The 37058
nonvoting members shall be the staff director of the Ohio arts 37059
council, a member of the senate appointed by the president of the 37060
senate, and a member of the house of representatives appointed by 37061
the speaker of the house. 37062

(C) Of the five initial appointments made by the governor, 37063
one shall be for a term expiring December 31, 1989, two shall be 37064
for terms expiring December 31, 1990, and two shall be for terms 37065
expiring December 31, 1991. Of the initial appointments of the 37066
sixth and seventh voting members made by the governor, one shall 37067
be for a term expiring December 31, 2003, and one shall be for a 37068
term expiring December 31, 2004. Of the initial appointments of 37069
the eighth and ninth voting members made by the governor, one 37070
shall be for a term expiring December 31, 2007, and one shall be 37071
for a term expiring December 31, 2008. These voting members shall 37072
be appointed within sixty days after the effective date of this 37073
amendment. Thereafter, each such term shall be for three years, 37074
commencing on the first day of January and ending on the 37075
thirty-first day of December. Each appointment by the president of 37076
the senate and by the speaker of the house of representatives 37077
shall be for the balance of the then legislative biennium. Each 37078
member shall hold office from the date of the member's appointment 37079
until the end of the term for which the member was appointed. Any 37080
member appointed to fill a vacancy occurring prior to the 37081
expiration of the term for which the member's predecessor was 37082
appointed shall hold office for the remainder of such term. Any 37083
member shall continue in office subsequent to the expiration date 37084

of the member's term until the member's successor takes office, or 37085
until a period of sixty days has elapsed, whichever occurs first. 37086

(D) Members of the commission shall serve without 37087
compensation. 37088

(E) Organizational meetings of the commission shall be held 37089
at the first meeting of each calendar year. At each organizational 37090
meeting, the commission shall elect from among its voting members 37091
a chairperson, a vice-chairperson, and a secretary-treasurer, who 37092
shall serve until the next annual meeting. The commission shall 37093
adopt rules pursuant to section 111.15 of the Revised Code for the 37094
conduct of its internal business and shall keep a journal of its 37095
proceedings. 37096

(F) ~~Four~~ Five voting members of the commission constitute a 37097
quorum, and the affirmative vote of ~~four~~ five members is necessary 37098
for approval of any action taken by the commission. A vacancy in 37099
the membership of the commission does not impair a quorum from 37100
exercising all the rights and performing all the duties of the 37101
commission. Meetings of the commission may be held anywhere in the 37102
state, and shall be held in compliance with section 121.22 of the 37103
Revised Code. 37104

(G) All expenses incurred in carrying out this chapter are 37105
payable solely from money accrued under this chapter or 37106
appropriated for these purposes by the general assembly, and the 37107
commission shall incur no liability or obligation beyond such 37108
money. 37109

(H) The commission shall file an annual report of its 37110
activities and finances with the governor, director of budget and 37111
management, speaker of the house of representatives, president of 37112
the senate, and chairpersons of the house and senate finance 37113
committees. 37114

(I) There is hereby established in the state treasury the 37115

Ohio cultural facilities commission administration fund. All 37116
revenues of the commission shall be credited to that fund and to 37117
any accounts created in ~~the~~ that fund with the commission's 37118
approval. All expenses of the commission, including reimbursement 37119
of, or payment to, any other fund or any governmental agency for 37120
advances made or services rendered to or on behalf of the 37121
commission, shall be paid from ~~the Ohio cultural facilities~~ 37122
~~commission administration~~ that fund as determined by or pursuant 37123
to directions of the commission. All investment earnings of ~~the~~ 37124
~~administration~~ that fund shall be credited to ~~the fund~~ it and 37125
shall be allocated among any accounts created in the fund in the 37126
manner determined by the commission. 37127

(J) Title to all real property and lesser interests in real 37128
property acquired by the commission, including leasehold and other 37129
interests, pursuant to this chapter shall be taken in the name of 37130
the state and shall be held for the use and benefit of the 37131
commission. The commission shall not mortgage such real property 37132
and interests in real property. Title to other property and 37133
interests in it acquired by the commission pursuant to this 37134
chapter shall be taken in its name. 37135

Sec. 3383.09. (A) There is hereby created in the state 37136
treasury the cultural and sports facilities building fund, which 37137
shall consist of proceeds of obligations authorized to pay costs 37138
of Ohio cultural facilities and Ohio sports facilities for which 37139
appropriations are made by the general assembly. All investment 37140
earnings of the fund shall be credited to the fund. 37141

(B) The director of budget and management may transfer, to 37142
the Ohio cultural facilities commission administration fund, 37143
investment earnings credited, or the premium paid on any bonds 37144
issued on behalf of the commission and credited, to the cultural 37145
and sports facilities building fund that exceed the amounts 37146

required to meet estimated federal arbitrage rebate requirements 37147
when requested of the director of budget and management by the 37148
chairperson or executive director of the commission. 37149

Sec. 3501.141. (A) The board of elections of any county may 37150
contract, purchase, or otherwise procure and pay all or any part 37151
of the cost of group insurance policies that may provide benefits 37152
for hospitalization, surgical care, major medical care, 37153
disability, dental care, eye care, medical care, hearing aids, or 37154
prescription drugs, and that may provide sickness and accident 37155
insurance, or group life insurance, or a combination of any of the 37156
foregoing types of insurance or coverage for the full-time 37157
employees of such board and their immediate dependents, whether 37158
issued by an insurance company or a health insuring corporation, 37159
duly authorized to do business in this state. The authority 37160
granted under this division applies only when the board of county 37161
commissioners, by resolution, denies coverage described in this 37162
division to full-time employees of the board of elections. 37163

(B) The board of elections of any county, with the approval 37164
of the board of county commissioners, may procure and pay all or 37165
any part of the cost of group hospitalization, surgical, major 37166
medical, or sickness and accident insurance or a combination of 37167
any of the foregoing types of insurance or coverage for the 37168
members appointed to the board of elections under section 3501.06 37169
of the Revised Code and their immediate dependents when each 37170
member's term begins, whether issued by an insurance company or a 37171
health insuring corporation, duly authorized to do business in 37172
this state. 37173

Sec. 3501.17. (A) The expenses of the board of elections 37174
shall be paid from the county treasury, in pursuance of 37175
appropriations by the board of county commissioners, in the same 37176
manner as other county expenses are paid. If the board of county 37177

commissioners fails to appropriate an amount sufficient to provide 37178
for the necessary and proper expenses of the board of elections 37179
pertaining to the conduct of elections, other than expenses for 37180
employee compensation and benefits incurred in the conduct of 37181
elections, ~~such~~ the board of elections may apply to the court of 37182
common pleas within the county, which shall fix the amount 37183
necessary to be appropriated and ~~such~~ the amount shall be 37184
appropriated. Payments shall be made upon vouchers of the board of 37185
elections certified to by its chairperson or acting chairperson 37186
and the director or deputy director, upon warrants of the county 37187
auditor. ~~The~~ 37188

The board of elections shall not incur any obligation 37189
involving the expenditure of money unless there are moneys 37190
sufficient in the funds appropriated therefor to meet ~~such~~ 37191
~~obligations~~ the obligation as required in division (D) of section 37192
5705.41 of the Revised Code. ~~Such~~ If the board of elections 37193
requests a transfer of funds from one of its appropriation items 37194
to another, the board of county commissioners shall adopt a 37195
resolution providing for the transfer except as otherwise provided 37196
in section 5705.40 of the Revised Code. The expenses of the board 37197
of elections shall be apportioned among the county and the various 37198
subdivisions as provided in this section, and the amount 37199
chargeable to each subdivision shall be withheld by the auditor 37200
from the moneys payable thereto at the time of the next tax 37201
settlement. At the time of submitting budget estimates in each 37202
year, the board of elections shall submit to the taxing authority 37203
of each subdivision, upon the request of the subdivision, an 37204
estimate of the amount to be withheld ~~therefrom~~ from the 37205
subdivision during the next fiscal year. 37206

(B) Except as otherwise provided in division (F) of this 37207
section, the entire compensation of the members of the board of 37208
elections and of the director, deputy director, and other 37209

employees in the board's offices; the expenditures for the rental, 37210
furnishing, and equipping of the office of the board and for the 37211
necessary office supplies for the use of the board; the 37212
expenditures for the acquisition, repair, care, and custody of the 37213
polling places, booths, guardrails, and other equipment for 37214
polling places; the cost of pollbooks, tally sheets, maps, flags, 37215
ballot boxes, and all other permanent records and equipment; the 37216
cost of all elections held in and for the state and county; and 37217
all other expenses of the board which are not chargeable to a 37218
political subdivision in accordance with this section shall be 37219
paid in the same manner as other county expenses are paid. 37220

(C) The compensation of judges and clerks of elections; the 37221
cost of renting, moving, heating, and lighting polling places and 37222
of placing and removing ballot boxes and other fixtures and 37223
equipment thereof; the cost of printing and delivering ballots, 37224
cards of instructions, and other election supplies; and all other 37225
expenses of conducting primaries and elections in the odd-numbered 37226
years shall be charged to the subdivisions in and for which such 37227
primaries or elections are held. The charge for each primary or 37228
general election in odd-numbered years for each subdivision shall 37229
be determined in the following manner: first, the total cost of 37230
all chargeable items used in conducting such elections shall be 37231
ascertained; second, the total charge shall be divided by the 37232
number of precincts participating in such election, in order to 37233
fix the cost per precinct; third, the cost per precinct shall be 37234
prorated by the board of elections to the subdivisions conducting 37235
elections for the nomination or election of offices in such 37236
precinct; fourth, the total cost for each subdivision shall be 37237
determined by adding the charges prorated to it in each precinct 37238
within the subdivision. 37239

(D) The entire cost of special elections held on a day other 37240
than the day of a primary or general election, both in 37241

odd-numbered or in even-numbered years, shall be charged to the 37242
subdivision. Where a special election is held on the same day as a 37243
primary or general election in an even-numbered year, the 37244
subdivision submitting the special election shall be charged only 37245
for the cost of ballots and advertising. Where a special election 37246
is held on the same day as a primary or general election in an 37247
odd-numbered year, the subdivision submitting the special election 37248
shall be charged for the cost of ballots and advertising for such 37249
special election, in addition to the charges prorated to such 37250
subdivision for the election or nomination of candidates in each 37251
precinct within the subdivision, as set forth in the preceding 37252
paragraph. 37253

(E) Where a special election is held on the day specified by 37254
division (E) of section 3501.01 of the Revised Code for the 37255
holding of a primary election, for the purpose of submitting to 37256
the voters of the state constitutional amendments proposed by the 37257
general assembly, and a subdivision conducts a special election on 37258
the same day, the entire cost of the special election shall be 37259
divided proportionally between the state and the subdivision based 37260
upon a ratio determined by the number of issues placed on the 37261
ballot by each, except as otherwise provided in division (G) of 37262
this section. Such proportional division of cost shall be made 37263
only to the extent funds are available for such purpose from 37264
amounts appropriated by the general assembly to the secretary of 37265
state. If a primary election is also being conducted in the 37266
subdivision, the costs shall be apportioned as otherwise provided 37267
in this section. 37268

(F) When a precinct is open during a general, primary, or 37269
special election solely for the purpose of submitting to the 37270
voters a statewide ballot issue, the state shall bear the entire 37271
cost of the election in that precinct and shall reimburse the 37272
county for all expenses incurred in opening the precinct. 37273

(G) The state shall bear the entire cost of advertising in newspapers statewide ballot issues, explanations of those issues, and arguments for or against those issues, as required by Section 1g of Article II and Section 1 of Article XVI, Ohio Constitution, and any other section of law and shall reimburse the counties for all expenses they incur for such advertising.

(H) The cost of renting, heating, and lighting registration places; the cost of the necessary books, forms, and supplies for the conduct of registration; and the cost of printing and posting precinct registration lists shall be charged to the subdivision in which such registration is held.

(I) As used in this section, "statewide ballot issue" means any ballot issue, whether proposed by the general assembly or by initiative or referendum, that is submitted to the voters throughout the state.

Sec. 3513.04. Candidates for party nominations to state, district, county, and municipal offices or positions, for which party nominations are provided by law, and for election as members of party controlling committees shall have their names printed on the official primary ballot by filing a declaration of candidacy and paying the fees specified for the office under divisions (A) and (B) of section 3513.10 of the Revised Code, except that the joint candidates for party nomination to the offices of governor and lieutenant governor shall, for the two of them, file one declaration of candidacy. The joint candidates also shall pay the fees specified for the joint candidates under divisions (A) and (B) of section 3513.10 of the Revised Code.

The secretary of state shall not accept for filing the declaration of candidacy of a candidate for party nomination to the office of governor unless the declaration of candidacy also shows a joint candidate for the same party's nomination to the

office of lieutenant governor, shall not accept for filing the 37305
declaration of candidacy of a candidate for party nomination to 37306
the office of lieutenant governor unless the declaration of 37307
candidacy also shows a joint candidate for the same party's 37308
nomination to the office of governor, and shall not accept for 37309
filing a declaration of candidacy that shows a candidate for party 37310
nomination to the office of governor or lieutenant governor who, 37311
for the same election, has already filed a declaration of 37312
candidacy or a declaration of intent to be a write-in candidate, 37313
or has become a candidate by the filling of a vacancy under 37314
section 3513.30 of the Revised Code for any other state office or 37315
any federal or county office. 37316

No person who seeks party nomination for an office or 37317
position at a primary election by declaration of candidacy or by 37318
declaration of intent to be a write-in candidate and no person who 37319
is a first choice for president of candidates seeking election as 37320
delegates and alternates to the national conventions of the 37321
different major political parties who are chosen by direct vote of 37322
the electors as provided in this chapter shall be permitted to 37323
become a candidate by nominating petition or by declaration of 37324
intent to be a write-in candidate at the following general 37325
election for any office other than the office of member of the 37326
state board of education, office of member of a city, local, or 37327
exempted village board of education, office of member of a 37328
governing board of an educational service center, or office of 37329
township trustee. 37330

Sec. 3513.041. A write-in space shall be provided on the 37331
ballot for every office, except in an election for which the board 37332
of elections has received no valid declarations of intent to be a 37333
write-in candidate under this section. Write-in votes shall not be 37334
counted for any candidate who has not filed a declaration of 37335

intent to be a write-in candidate pursuant to this section. A 37336
qualified person who has filed a declaration of intent may receive 37337
write-in votes at either a primary or general election. Any 37338
candidate, ~~except one whose candidacy is to be submitted to~~ 37339
~~electors throughout the entire state,~~ shall file a declaration of 37340
intent to be a write-in candidate before four p.m. of the fiftieth 37341
day preceding the election at which such candidacy is to be 37342
considered. If the election is to be determined by electors of a 37343
county or a district or subdivision within the county, such 37344
declaration shall be filed with the board of elections of that 37345
county. If the election is to be determined by electors of a 37346
subdivision located in more than one county, such declaration 37347
shall be filed with the board of elections of the county in which 37348
the major portion of the population of such subdivision is 37349
located. If the election is to be determined by electors of a 37350
district comprised of more than one county but less than all of 37351
the counties of the state, such declaration shall be filed with 37352
the board of elections of the most populous county in such 37353
district. Any candidate for an office to be voted upon by electors 37354
throughout the entire state shall file a declaration of intent to 37355
be a write-in candidate with the secretary of state before four 37356
p.m. of the fiftieth day preceding the election at which such 37357
candidacy is to be considered. In addition, candidates for 37358
president and vice-president of the United States shall also file 37359
with the secretary of state by said fiftieth day a slate of 37360
presidential electors sufficient in number to satisfy the 37361
requirements of the United States constitution. 37362

A board of elections shall not accept for filing the 37363
declaration of intent to be a write-in candidate of a person 37364
seeking to become a candidate if that person, for the same 37365
election, has already filed a declaration of candidacy, a 37366
declaration of intent to be a write-in candidate, or a nominating 37367
petition, or has become a candidate through party nomination at a 37368

primary election or by the filling of a vacancy under section 37369
3513.30 or 3513.31 of the Revised Code, for any federal, state, or 37370
county office, if the declaration of intent to be a write-in 37371
candidate is for a state or county office, or for any municipal or 37372
township office, for member of a city, local, or exempted village 37373
board of education, or for member of a governing board of an 37374
educational service center, if the declaration of intent to be a 37375
write-in candidate is for a municipal or township office, or for 37376
member of a city, local, or exempted village board of education, 37377
or for member of a governing board of an educational service 37378
center. 37379

No person shall file a declaration of intent to be a write-in 37380
candidate for the office of governor unless the declaration also 37381
shows the intent of another person to be a write-in candidate for 37382
the office of lieutenant governor. No person shall file a 37383
declaration of intent to be a write-in candidate for the office of 37384
lieutenant governor unless the declaration also shows the intent 37385
of another person to be a write-in candidate for the office of 37386
governor. No person shall file a declaration of intent to be a 37387
write-in candidate for the office of governor or lieutenant 37388
governor if the person has previously filed a declaration of 37389
intent to be a write-in candidate to the office of governor or 37390
lieutenant governor at the same primary or general election. A 37391
write-in vote for the two candidates who file such a declaration 37392
shall be counted as a vote for them as joint candidates for the 37393
offices of governor and lieutenant governor. 37394

The secretary of state shall not accept for filing the 37395
declaration of intent to be a write-in candidate of a person for 37396
the office of governor unless the declaration also shows the 37397
intent of another person to be a write-in candidate for the office 37398
of lieutenant governor, shall not accept for filing the 37399
declaration of intent to be a write-in candidate of a person for 37400

the office of lieutenant governor unless the declaration also 37401
shows the intent of another person to be a write-in candidate for 37402
the office of governor, and shall not accept for filing the 37403
declaration of intent to be a write-in candidate of a person to 37404
the office of governor or lieutenant governor if that person, for 37405
the same election, has already filed a declaration of candidacy, a 37406
declaration of intent to be a write-in candidate, or a nominating 37407
petition, or has become a candidate through party nomination at a 37408
primary election or by the filling of a vacancy under section 37409
3513.30 or 3513.31 of the Revised Code, for any other state office 37410
or any federal or county office. 37411

Protests against the candidacy of any person filing a 37412
declaration of intent to be a write-in candidate may be filed by 37413
any qualified elector who is eligible to vote in the election at 37414
which the candidacy is to be considered. The protest shall be in 37415
writing and shall be filed not later than four p.m. of the 37416
forty-fifth day before the day of the election. The protest shall 37417
be filed with the board of elections with which the declaration of 37418
intent to be a write-in candidate was filed. Upon the filing of 37419
the protest, the board with which it is filed shall promptly fix 37420
the time for hearing it and shall proceed in regard to the hearing 37421
in the same manner as for hearings set for protests filed under 37422
section 3513.05 of the Revised Code. At the time fixed, the board 37423
shall hear the protest and determine the validity or invalidity of 37424
the declaration of intent to be a write-in candidate. If the board 37425
finds that the candidate is not an elector of the state, district, 37426
county, or political subdivision in which the candidate seeks 37427
election to office or has not fully complied with the requirements 37428
of Title XXXV of the Revised Code in regard to the candidate's 37429
candidacy, the candidate's declaration of intent to be a write-in 37430
candidate shall be determined to be invalid and shall be rejected; 37431
otherwise, it shall be determined to be valid. The determination 37432

of the board is final. 37433

The secretary of state shall prescribe the form of the 37434
declaration of intent to be a write-in candidate. 37435

Sec. 3513.05. Each person desiring to become a candidate for 37436
a party nomination or for election to an office or position to be 37437
voted for at a primary election, except persons desiring to become 37438
joint candidates for the offices of governor and lieutenant 37439
governor and except as otherwise provided in section 3513.051 of 37440
the Revised Code, shall, not later than four p.m. of the 37441
seventy-fifth day before the day of the primary election, or if 37442
the primary election is a presidential primary election, not later 37443
than four p.m. of the sixtieth day before the day of the 37444
presidential primary election, file a declaration of candidacy and 37445
petition and pay the fees required under divisions (A) and (B) of 37446
section 3513.10 of the Revised Code. The declaration of candidacy 37447
and all separate petition papers shall be filed at the same time 37448
as one instrument. When the offices are to be voted for at a 37449
primary election, persons desiring to become joint candidates for 37450
the offices of governor and lieutenant governor shall, not later 37451
than four p.m. of the seventy-fifth day before the day of the 37452
primary election, comply with section 3513.04 of the Revised Code. 37453
The prospective joint candidates' declaration of candidacy and all 37454
separate petition papers of candidacies shall be filed at the same 37455
time as one instrument. The secretary of state or a board of 37456
elections shall not accept for filing a declaration of candidacy 37457
and petition of a person seeking to become a candidate if that 37458
person, for the same election, has already filed a declaration of 37459
candidacy or a declaration of intent to be a write-in candidate, 37460
or has become a candidate by the filling of a vacancy under 37461
section 3513.30 of the Revised Code for any federal, state, or 37462
county office, if the declaration of candidacy is for a state or 37463

county office, or for any municipal or township office, if the 37464
declaration of candidacy is for a municipal or township office. 37465

If the declaration of candidacy declares a candidacy which is 37466
to be submitted to electors throughout the entire state, the 37467
petition, including a petition for joint candidates for the 37468
offices of governor and lieutenant governor, shall be signed by at 37469
least one thousand qualified electors who are members of the same 37470
political party as the candidate or joint candidates, and the 37471
declaration of candidacy and petition shall be filed with the 37472
secretary of state; provided that the secretary of state shall not 37473
accept or file any such petition appearing on its face to contain 37474
signatures of more than three thousand electors. 37475

Except as otherwise provided in this paragraph, if the 37476
declaration of candidacy is of one that is to be submitted only to 37477
electors within a district, political subdivision, or portion 37478
thereof, the petition shall be signed by not less than fifty 37479
qualified electors who are members of the same political party as 37480
the political party of which the candidate is a member. If the 37481
declaration of candidacy is for party nomination as a candidate 37482
for member of the legislative authority of a municipal corporation 37483
elected by ward, the petition shall be signed by not less than 37484
twenty-five qualified electors who are members of the political 37485
party of which the candidate is a member. 37486

No such petition, except the petition for a candidacy that is 37487
to be submitted to electors throughout the entire state, shall be 37488
accepted for filing if it appears to contain on its face 37489
signatures of more than three times the minimum number of 37490
signatures. When a petition of a candidate has been accepted for 37491
filing by a board of elections, the petition shall not be deemed 37492
invalid if, upon verification of signatures contained in the 37493
petition, the board of elections finds the number of signatures 37494
accepted exceeds three times the minimum number of signatures 37495

required. A board of elections may discontinue verifying 37496
signatures on petitions when the number of verified signatures 37497
equals the minimum required number of qualified signatures. 37498

If the declaration of candidacy declares a candidacy for 37499
party nomination or for election as a candidate of an intermediate 37500
or minor party, the minimum number of signatures on such petition 37501
is one-half the minimum number provided in this section, except 37502
that, when the candidacy is one for election as a member of the 37503
state central committee or the county central committee of a 37504
political party, the minimum number shall be the same for an 37505
intermediate or minor party as for a major party. 37506

If a declaration of candidacy is one for election as a member 37507
of the state central committee or the county central committee of 37508
a political party, the petition shall be signed by five qualified 37509
electors of the district, county, ward, township, or precinct 37510
within which electors may vote for such candidate. The electors 37511
signing such petition shall be members of the same political party 37512
as the political party of which the candidate is a member. 37513

For purposes of signing or circulating a petition of 37514
candidacy for party nomination or election, an elector is 37515
considered to be a member of a political party if the elector 37516
voted in that party's primary election within the preceding two 37517
calendar years, or if the elector did not vote in any other 37518
party's primary election within the preceding two calendar years. 37519

If the declaration of candidacy is of one that is to be 37520
submitted only to electors within a county, or within a district 37521
or subdivision or part thereof smaller than a county, the petition 37522
shall be filed with the board of elections of the county. If the 37523
declaration of candidacy is of one that is to be submitted only to 37524
electors of a district or subdivision or part thereof that is 37525
situated in more than one county, the petition shall be filed with 37526

the board of elections of the county within which the major 37527
portion of the population thereof, as ascertained by the next 37528
preceding federal census, is located. 37529

A petition shall consist of separate petition papers, each of 37530
which shall contain signatures of electors of only one county. 37531
Petitions or separate petition papers containing signatures of 37532
electors of more than one county shall not thereby be declared 37533
invalid. In case petitions or separate petition papers containing 37534
signatures of electors of more than one county are filed, the 37535
board shall determine the county from which the majority of 37536
signatures came, and only signatures from such county shall be 37537
counted. Signatures from any other county shall be invalid. 37538

Each separate petition paper shall be circulated by one 37539
person only, who shall be the candidate or a joint candidate or a 37540
member of the same political party as the candidate or joint 37541
candidates, and each separate petition paper shall be governed by 37542
the rules set forth in section 3501.38 of the Revised Code. 37543

The secretary of state shall promptly transmit to each board 37544
such separate petition papers of each petition accompanying a 37545
declaration of candidacy filed with the secretary of state as 37546
purport to contain signatures of electors of the county of such 37547
board. The board of the most populous county of a district shall 37548
promptly transmit to each board within such district such separate 37549
petition papers of each petition accompanying a declaration of 37550
candidacy filed with it as purport to contain signatures of 37551
electors of the county of each such board. The board of a county 37552
within which the major portion of the population of a subdivision, 37553
situated in more than one county, is located, shall promptly 37554
transmit to the board of each other county within which a portion 37555
of such subdivision is located such separate petition papers of 37556
each petition accompanying a declaration of candidacy filed with 37557
it as purport to contain signatures of electors of the portion of 37558

such subdivision in the county of each such board.

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All petition papers so transmitted to a board and all petitions accompanying declarations of candidacy filed with ~~such a~~ board shall, under proper regulations, be open to public inspection until four p.m. of the seventieth day before the day of the next primary election, or if that next primary election is a presidential primary election, the fifty-fifth day before that presidential primary election. Each board shall, not later than the sixty-eighth day before the day of ~~such that~~ primary election, or if the primary election is a presidential primary election, not later than the fifty-third day before such presidential primary election, examine and determine the validity or invalidity of the signatures on the petition papers so transmitted to or filed with it and shall return to the secretary of state all petition papers transmitted to it by the secretary of state, together with its certification of its determination as to the validity or invalidity of signatures thereon, and shall return to each other board all petition papers transmitted to it by such board, together with its certification of its determination as to the validity or invalidity of the signatures thereon. All other matters affecting the validity or invalidity of such petition papers shall be determined by the secretary of state or the board with whom such petition papers were filed.

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Protests against the candidacy of any person filing a declaration of candidacy for party nomination or for election to an office or position, as provided in this section, may be filed by any qualified elector who is a member of the same political party as the candidate and who is eligible to vote at the primary election for the candidate whose declaration of candidacy the elector objects to, or by the controlling committee of ~~such that~~ political party. ~~Such~~ The protest ~~must~~ shall be in writing, and ~~must~~ shall be filed not later than four p.m. of the sixty-fourth

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day before the day of the primary election, or if the primary 37591
election is a presidential primary election, not later than four 37592
p.m. of the forty-ninth day before the day of the presidential 37593
primary election. ~~Such~~ The protest shall be filed with the 37594
election officials with whom the declaration of candidacy and 37595
petition was filed. Upon the filing of ~~such~~ the protest, the 37596
election officials with whom it is filed shall promptly fix the 37597
time for hearing it, and shall forthwith mail notice of the filing 37598
of ~~such~~ the protest and the time fixed for hearing to the person 37599
whose candidacy is so protested. They shall also forthwith mail 37600
notice of the time fixed for such hearing to the person who filed 37601
the protest. At the time fixed, such election officials shall hear 37602
the protest and determine the validity or invalidity of the 37603
declaration of candidacy and petition. If they find that such 37604
candidate is not an elector of the state, district, county, or 37605
political subdivision in which the candidate seeks a party 37606
nomination or election to an office or position, or has not fully 37607
complied with this chapter, the candidate's declaration of 37608
candidacy and petition shall be determined to be invalid and shall 37609
be rejected; otherwise, it shall be determined to be valid. ~~Such~~ 37610
That determination shall be final. 37611

A protest against the candidacy of any persons filing a 37612
declaration of candidacy for joint party nomination to the offices 37613
of governor and lieutenant governor shall be filed, heard, and 37614
determined in the same manner as a protest against the candidacy 37615
of any person filing a declaration of candidacy singly. 37616

The secretary of state shall, on the sixtieth day before the 37617
day of a primary election, or if the primary election is a 37618
presidential primary election, on the forty-fifth day before the 37619
day of the presidential primary election, certify to each board in 37620
the state the forms of the official ballots to be used at ~~such~~ the 37621
primary election, together with the names of the candidates to be 37622

printed ~~thereon~~ on the ballots whose nomination or election is to 37623
be determined by electors throughout the entire state and who 37624
filed valid declarations of candidacy and petitions. 37625

The board of the most populous county in a district comprised 37626
of more than one county but less than all of the counties of the 37627
state shall, on the sixtieth day before the day of a primary 37628
election, or if the primary election is a presidential primary 37629
election, on the forty-fifth day before the day of a presidential 37630
primary election, certify to the board of each county in the 37631
district the names of the candidates to be printed on the official 37632
ballots to be used at ~~such~~ the primary election, whose nomination 37633
or election is to be determined only by electors within ~~such~~ the 37634
district and who filed valid declarations of candidacy and 37635
petitions. 37636

The board of a county within which the major portion of the 37637
population of a subdivision smaller than the county and situated 37638
in more than one county is located shall, on the sixtieth day 37639
before the day of a primary election, or if the primary election 37640
is a presidential primary election, on the forty-fifth day before 37641
the day of a presidential primary election, certify to the board 37642
of each county in which a portion of ~~such~~ that subdivision is 37643
located the names of the candidates to be printed on the official 37644
ballots to be used at ~~such~~ the primary election, whose nomination 37645
or election is to be determined only by electors within ~~such~~ that 37646
subdivision and who filed valid declarations of candidacy and 37647
petitions. 37648

Sec. 3513.052. (A) No person shall seek nomination or 37649
election to any of the following offices or positions at the same 37650
election by filing a declaration of candidacy and petition, a 37651
declaration of intent to be a write-in candidate, or a nominating 37652
petition, or by becoming a candidate through party nomination in a 37653

primary election, or by the filling of a vacancy under section	37654
3513.30 or 3513.31 of the Revised Code:	37655
(1) Two or more state offices;	37656
(2) Two or more county offices;	37657
(3) A state office and a county office;	37658
(4) <u>A federal office and a state or county office;</u>	37659
<u>(5) Any combination of two or more municipal or township</u>	37660
offices, positions as a member of a city, local, or exempted	37661
village board of education, or positions as a member of a	37662
governing board of an educational service center.	37663
(B) The secretary of state or a board of elections shall not	37664
accept for filing a declaration of candidacy and petition, a	37665
declaration of intent to be a write-in candidate, or a nominating	37666
petition of a person seeking to become a candidate if that person,	37667
for the same election, has already filed a declaration of	37668
candidacy, a declaration of intent to be a write-in candidate, or	37669
a nominating petition, or has become a candidate through party	37670
nomination at a primary election or by the filling of a vacancy	37671
under section 3513.30 or 3513.31 of the Revised Code for:	37672
(1) Any <u>federal, state, or county office</u> , if the declaration	37673
of candidacy, declaration of intent to be a write-in candidate, or	37674
nominating petition is for a state or county office;	37675
(2) Any municipal or township office, or for member of a	37676
city, local, or exempted village board of education, or for member	37677
of a governing board of an educational service center, if the	37678
declaration of candidacy, declaration of intent to be a write-in	37679
candidate, or nominating petition is for a municipal or township	37680
office, or for member of a city, local, or exempted village board	37681
of education, or for member of a governing board of an educational	37682
service center.	37683

(C)(1) If the secretary of state determines, before the day 37684
of the primary election, that a person is seeking nomination to 37685
more than one office at that election in violation of division (A) 37686
of this section, the secretary of state shall do one of the 37687
following: 37688

(a) If each office or the district for each office for which 37689
the person is seeking nomination is wholly within a single county 37690
and none of those offices is a federal office, the secretary of 37691
state shall notify the board of elections of that county. The 37692
board then shall determine the date on which the person first 37693
sought to become a candidate for each of those offices by filing a 37694
declaration of candidacy or a declaration of intent to be a 37695
write-in candidate or by the filling of a vacancy under section 37696
3513.30 of the Revised Code. The board shall vote promptly to 37697
disqualify that person as a candidate for each office for which 37698
the person sought to become a candidate after the date on which 37699
the person first sought to become a candidate for any of those 37700
offices. If the board determines that the person sought to become 37701
a candidate for more than one of those offices on the same date, 37702
the board shall vote promptly to disqualify that person as a 37703
candidate for each office that would be listed on the ballot below 37704
the highest office for which that person seeks nomination, 37705
according to the ballot order prescribed under section 3505.03 of 37706
the Revised Code. 37707

(b) If one or more of the offices for which the person is 37708
seeking nomination is a state office or an office with a district 37709
larger than a single county and none of the offices for which the 37710
person is seeking nomination is a federal office, the secretary of 37711
state shall determine the date on which the person first sought to 37712
become a candidate for each of those offices by filing a 37713
declaration of candidacy or a declaration of intent to be a 37714
write-in candidate or by the filling of a vacancy under section 37715

3513.30 of the Revised Code. The secretary of state shall order 37716
the board of elections of each county in which the person is 37717
seeking to appear on the ballot to disqualify that person as a 37718
candidate for each office for which the person sought to become a 37719
candidate after the date on which the person first sought to 37720
become a candidate for any of those offices. If the secretary of 37721
state determines that the person sought to become a candidate for 37722
more than one of those offices on the same date, the secretary of 37723
state shall order the board of elections of each county in which 37724
the person is seeking to appear on the ballot to disqualify that 37725
person as a candidate for each office that would be listed on the 37726
ballot below the highest office for which that person seeks 37727
nomination, according to the ballot order prescribed under section 37728
3505.03 of the Revised Code. Each board of elections so notified 37729
shall vote promptly to disqualify the person as a candidate in 37730
accordance with the order of the secretary of state. 37731

(c) If each office or the district for each office for which 37732
the person is seeking nomination is wholly within a single county 37733
and any of those offices is a federal office, the secretary of 37734
state shall notify the board of elections of that county. The 37735
board then shall vote promptly to disqualify that person as a 37736
candidate for each office that is not a federal office. 37737

(d) If one or more of the offices for which the person is 37738
seeking nomination is a state office and any of the offices for 37739
which the person is seeking nomination is a federal office, the 37740
secretary of state shall order the board of elections of each 37741
county in which the person is seeking to appear on the ballot to 37742
disqualify that person as a candidate for each office that is not 37743
a federal office. Each board of elections so notified shall vote 37744
promptly to disqualify the person as a candidate in accordance 37745
with the order of the secretary of state. 37746

(2) If a board of elections determines, before the day of the 37747

primary election, that a person is seeking nomination to more than 37748
one office at that election in violation of division (A) of this 37749
section, the board shall do one of the following: 37750

(a) If each office or the district for each office for which 37751
the person is seeking nomination is wholly within that county and 37752
none of those offices is a federal office, the board shall 37753
determine the date on which the person first sought to become a 37754
candidate for each of those offices by filing a declaration of 37755
candidacy or a declaration of intent to be a write-in candidate or 37756
by the filling of a vacancy under section 3513.30 of the Revised 37757
Code. The board shall vote promptly to disqualify that person as a 37758
candidate for each office for which the person sought to become a 37759
candidate after the date on which the person first sought to 37760
become a candidate for any of those offices. If the board 37761
determines that the person sought to become a candidate for more 37762
than one of those offices on the same date, the board shall vote 37763
promptly to disqualify that person as a candidate for each office 37764
that would be listed on the ballot below the highest office for 37765
which that person seeks nomination, according to the ballot order 37766
prescribed under section 3505.03 of the Revised Code. 37767

(b) If one or more of the offices for which the person is 37768
seeking nomination is a state office or an office with a district 37769
larger than a single county and none of the offices for which the 37770
person is seeking nomination is a federal office, the board shall 37771
notify the secretary of state. The secretary of state then shall 37772
determine the date on which the person first sought to become a 37773
candidate for each of those offices by filing a declaration of 37774
candidacy or a declaration of intent to be a write-in candidate or 37775
by the filling of a vacancy under section 3513.30 of the Revised 37776
Code. The secretary of state shall order the board of elections of 37777
each county in which the person is seeking to appear on the ballot 37778
to disqualify that person as a candidate for each office for which 37779

the person sought to become a candidate after the date on which 37780
the person first sought to become a candidate for any of those 37781
offices. If the secretary of state determines that the person 37782
sought to become a candidate for more than one of those offices on 37783
the same date, the secretary of state shall order the board of 37784
elections of each county in which the person is seeking to appear 37785
on the ballot to disqualify that person as a candidate for each 37786
office that would be listed on the ballot below the highest office 37787
for which that person seeks nomination, according to the ballot 37788
order prescribed under section 3505.03 of the Revised Code. Each 37789
board of elections so notified shall vote promptly to disqualify 37790
the person as a candidate in accordance with the order of the 37791
secretary of state. 37792

(c) If each office or the district for each office for which 37793
the person is seeking nomination is wholly within a single county 37794
and any of those offices is a federal office, the board shall vote 37795
promptly to disqualify that person as a candidate for each office 37796
that is not a federal office. 37797

(d) If one or more of the offices for which the person is 37798
seeking nomination is a state office and any of the offices for 37799
which the person is seeking nomination is a federal office, the 37800
board shall notify the secretary of state. The secretary of state 37801
then shall order the board of elections of each county in which 37802
the person is seeking to appear on the ballot to disqualify that 37803
person as a candidate for each office that is not a federal 37804
office. Each board of elections so notified shall vote promptly to 37805
disqualify the person as a candidate in accordance with the order 37806
of the secretary of state. 37807

(D)(1) If the secretary of state determines, after the day of 37808
the primary election and before the day of the general election, 37809
that a person is seeking election to more than one office at that 37810
election in violation of division (A) of this section, the 37811

secretary of state shall do one of the following: 37812

(a) If each office or the district for each office for which 37813
the person is seeking election is wholly within a single county 37814
and none of those offices is a federal office, the secretary of 37815
state shall notify the board of elections of that county. The 37816
board then shall determine the offices for which the person seeks 37817
to appear as a candidate on the ballot. The board shall vote 37818
promptly to disqualify that person as a candidate for each office 37819
that would be listed on the ballot below the highest office for 37820
which that person seeks election, according to the ballot order 37821
prescribed under section 3505.03 of the Revised Code. If the 37822
person sought nomination at a primary election and has not yet 37823
been issued a certificate of nomination, the board shall not issue 37824
that certificate for that person for any office that would be 37825
listed on the ballot below the highest office for which that 37826
person seeks election, according to the ballot order prescribed 37827
under section 3505.03 of the Revised Code. 37828

(b) If one or more of the offices for which the person is 37829
seeking election is a state office or an office with a district 37830
larger than a single county and none of the offices for which the 37831
person is seeking election is a federal office, the secretary of 37832
state shall promptly investigate and determine the offices for 37833
which the person seeks to appear as a candidate on the ballot. The 37834
secretary of state shall order the board of elections of each 37835
county in which the person is seeking to appear on the ballot to 37836
disqualify that person as a candidate for each office that would 37837
be listed on the ballot below the highest office for which that 37838
person seeks election, according to the ballot order prescribed 37839
under section 3505.03 of the Revised Code. Each board of elections 37840
so notified shall vote promptly to disqualify the person as a 37841
candidate in accordance with the order of the secretary of state. 37842
If the person sought nomination at a primary election and has not 37843

yet been issued a certificate of nomination, the board shall not 37844
issue that certificate for that person for any office that would 37845
be listed on the ballot below the highest office for which that 37846
person seeks election, according to the ballot order prescribed 37847
under section 3505.03 of the Revised Code. 37848

(c) If each office or the district for each office for which 37849
the person is seeking election is wholly within a single county 37850
and any of those offices is a federal office, the secretary of 37851
state shall notify the board of elections of that county. The 37852
board then shall vote promptly to disqualify that person as a 37853
candidate for each office that is not a federal office. If the 37854
person sought nomination at a primary election and has not yet 37855
been issued a certificate of nomination, the board shall not issue 37856
that certificate for that person for any office that is not a 37857
federal office. 37858

(d) If one or more of the offices for which the person is 37859
seeking election is a state office and any of the offices for 37860
which the person is seeking election is a federal office, the 37861
secretary of state shall order the board of elections of each 37862
county in which the person is seeking to appear on the ballot to 37863
disqualify that person as a candidate for each office that is not 37864
a federal office. Each board of elections so notified shall vote 37865
promptly to disqualify the person as a candidate in accordance 37866
with the order of the secretary of state. If the person sought 37867
nomination at a primary election and has not yet been issued a 37868
certificate of nomination, the board shall not issue that 37869
certificate for that person for any office that is not a federal 37870
office. 37871

(2) If a board of elections determines, after the day of the 37872
primary election and before the day of the general election, that 37873
a person is seeking election to more than one office at that 37874
election in violation of division (A) of this section, the board 37875

of elections shall do one of the following: 37876

(a) If each office or the district for each office for which 37877
the person is seeking election is wholly within that county and 37878
none of those offices is a federal office, the board shall 37879
determine the offices for which the person seeks to appear as a 37880
candidate on the ballot. The board shall vote promptly to 37881
disqualify that person as a candidate for each office that would 37882
be listed on the ballot below the highest office for which that 37883
person seeks election, according to the ballot order prescribed 37884
under section 3505.03 of the Revised Code. If the person sought 37885
nomination at a primary election and has not yet been issued a 37886
certificate of nomination, the board shall not issue that 37887
certificate for that person for any office that would be listed on 37888
the ballot below the highest office for which that person seeks 37889
election, according to the ballot order prescribed under section 37890
3505.03 of the Revised Code. 37891

(b) If one or more of the offices for which the person is 37892
seeking election is a state office or an office with a district 37893
larger than a single county and none of the offices for which the 37894
person is seeking election is a federal office, the board shall 37895
notify the secretary of state. The secretary of state promptly 37896
shall investigate and determine the offices for which the person 37897
seeks to appear as a candidate on the ballot. The secretary of 37898
state shall order the board of elections of each county in which 37899
the person is seeking to appear on the ballot to disqualify that 37900
person as a candidate for each office that would be listed on the 37901
ballot below the highest office for which that person seeks 37902
election, according to the ballot order prescribed under section 37903
3505.03 of the Revised Code. Each board of elections so notified 37904
shall vote promptly to disqualify the person as a candidate in 37905
accordance with the order of the secretary of state. If the person 37906
sought nomination at a primary election and has not yet been 37907

issued a certificate of nomination, the board shall not issue that 37908
certificate for that person for any office that would be listed on 37909
the ballot below the highest office for which that person seeks 37910
election, according to the ballot order prescribed under section 37911
3505.03 of the Revised Code. 37912

(c) If each office or the district for each office for which 37913
the person is seeking election is wholly within that county and 37914
any of those offices is a federal office, the board shall vote 37915
promptly to disqualify that person as a candidate for each office 37916
that is not a federal office. If the person sought nomination at a 37917
primary election and has not yet been issued a certificate of 37918
nomination, the board shall not issue that certificate for that 37919
person for any office that is not a federal office. 37920

(d) If one or more of the offices for which the person is 37921
seeking election is a state office and any of the offices for 37922
which the person is seeking election is a federal office, the 37923
board shall notify the secretary of state. The secretary of state 37924
shall order the board of elections of each county in which the 37925
person is seeking to appear on the ballot to disqualify that 37926
person as a candidate for each office that is not a federal 37927
office. Each board of elections so notified shall vote promptly to 37928
disqualify the person as a candidate in accordance with the order 37929
of the secretary of state. If the person sought nomination at a 37930
primary election and has not yet been issued a certificate of 37931
nomination, the board shall not issue that certificate for that 37932
person for any office that is not a federal office. 37933

(E) When a person is disqualified as a candidate under 37934
division (C) or (D) of this section, that person's name shall not 37935
appear on the ballots for any office for which that person has 37936
been disqualified as a candidate. If the ballots have already been 37937
prepared, the board of elections shall remove the name of the 37938
disqualified candidate from the ballots to the extent practicable 37939

in the time remaining before the election and according to the 37940
directions of the secretary of state. If the name is not removed 37941
from the ballots before the day of the election, the votes for the 37942
disqualified candidate are void and shall not be counted. 37943

(F) Any vacancy created by the disqualification of a person 37944
as a candidate under division (C) or (D) of this section may be 37945
filled in the manner provided for in sections 3513.30 and 3513.31 37946
of the Revised Code. 37947

(G) Nothing in this section or section 3513.04, 3513.041, 37948
3513.05, 3513.251, 3513.253, 3513.254, 3513.255, 3513.257, 37949
3513.259, or 3513.261 of the Revised Code prohibits, and the 37950
secretary of state or a board of elections shall not disqualify, a 37951
person from being a candidate for an office, if that person timely 37952
withdraws as a candidate for any offices specified in division (A) 37953
of this section for which that person first sought to become a 37954
candidate by filing a declaration of candidacy and petition, a 37955
declaration of intent to be a write-in candidate, or a nominating 37956
petition, by party nomination in a primary election, or by the 37957
filling of a vacancy under section 3513.30 or 3513.31 of the 37958
Revised Code. 37959

(H) As used in this section: 37960

(1) "State office" means the offices of governor, lieutenant 37961
governor, secretary of state, auditor of state, treasurer of 37962
state, attorney general, member of the state board of education, 37963
member of the general assembly, chief justice of the supreme 37964
court, and justice of the supreme court. 37965

(2) "Timely withdraws" means either of the following: 37966

(a) Withdrawing as a candidate before the applicable deadline 37967
for filing a declaration of candidacy, declaration of intent to be 37968
a write-in candidate, or nominating petition for the subsequent 37969
office for which the person is seeking to become a candidate at 37970

the same election; 37971

(b) Withdrawing as a candidate before the applicable deadline 37972
for the filling of a vacancy under section 3513.30 or 3513.31 of 37973
the Revised Code, if the person is seeking to become a candidate 37974
for a subsequent office at the same election under either of those 37975
sections. 37976

Sec. 3513.257. Each person desiring to become an independent 37977
candidate for an office for which candidates may be nominated at a 37978
primary election, except persons desiring to become independent 37979
joint candidates for the offices of governor and lieutenant 37980
governor and for the offices of president and vice-president of 37981
the United States, shall file no later than four p.m. of the day 37982
before the day of the primary election immediately preceding the 37983
general election at which such candidacy is to be voted for by the 37984
voters, a statement of candidacy and nominating petition as 37985
provided in section 3513.261 of the Revised Code. Persons desiring 37986
to become independent joint candidates for the offices of governor 37987
and lieutenant governor shall file, not later than four p.m. of 37988
the day before the day of the primary election, one statement of 37989
candidacy and one nominating petition for the two of them. Persons 37990
desiring to become independent joint candidates for the offices of 37991
president and vice-president of the United States shall file, not 37992
later than four p.m. of the seventy-fifth day before the day of 37993
the general election at which the president and vice-president are 37994
to be elected, one statement of candidacy and one nominating 37995
petition for the two of them. The prospective independent joint 37996
candidates' statement of candidacy shall be filed with the 37997
nominating petition as one instrument. 37998

The statement of candidacy and separate petition papers of 37999
each candidate or pair of joint candidates shall be filed at the 38000
same time as one instrument. 38001

The nominating petition shall contain signatures of qualified electors of the district, political subdivision, or portion of a political subdivision in which the candidacy is to be voted on in an amount to be determined as follows:

(A) If the candidacy is to be voted on by electors throughout the entire state, the nominating petition, including the nominating petition of independent joint candidates for the offices of governor and lieutenant governor, shall be signed by no less than five thousand qualified electors, provided that no petition shall be accepted for filing if it purports to contain more than fifteen thousand signatures.

(B) If the candidacy is to be voted on by electors in any district, political subdivision, or part thereof in which less than five thousand electors voted for the office of governor at the most recent election for that office, the nominating petition shall contain signatures of not less than twenty-five qualified electors of the district, political subdivision, or part thereof, or a number of qualified signatures equal to at least five per cent of that vote, if this number is less than twenty-five.

(C) If the candidacy is to be voted on by electors in any district, political subdivision, or part thereof in which five thousand or more electors voted for the office of governor at the most recent election for that office, the nominating petition shall contain a number of signatures equal to at least one per cent of those electors.

All nominating petitions of candidates for offices to be voted on by electors throughout the entire state shall be filed in the office of the secretary of state. No nominating petition for the offices of president and vice-president of the United States shall be accepted for filing unless there is submitted to the secretary of state, at the time of filing the petition, a slate of

presidential electors sufficient in number to satisfy the 38033
requirement of the United States Constitution. The secretary of 38034
state shall not accept for filing the statement of candidacy of a 38035
person who desires to be an independent candidate for the office 38036
of governor unless it also shows the joint candidacy of a person 38037
who desires to be an independent candidate for the office of 38038
lieutenant governor, shall not accept for filing the statement of 38039
candidacy of a person who desires to be an independent candidate 38040
for the office of lieutenant governor unless it also shows the 38041
joint candidacy of a person who desires to be an independent 38042
candidate for the office of governor, and shall not accept for 38043
filing the statement of candidacy of a person who desires to be an 38044
independent candidate to the office of governor or lieutenant 38045
governor who, for the same election, has already filed a 38046
declaration of candidacy, a declaration of intent to be a write-in 38047
candidate, or a statement of candidacy, or has become a candidate 38048
by the filling of a vacancy under section 3513.30 of the Revised 38049
Code for any other state office or any federal or county office. 38050

Nominating petitions of candidates for offices to be voted on 38051
by electors within a district or political subdivision comprised 38052
of more than one county but less than all counties of the state 38053
shall be filed with the boards of elections of that county or part 38054
of a county within the district or political subdivision which had 38055
a population greater than that of any other county or part of a 38056
county within the district or political subdivision according to 38057
the last federal decennial census. 38058

Nominating petitions for offices to be voted on by electors 38059
within a county or district smaller than a county shall be filed 38060
with the board of elections for such county. 38061

No petition other than the petition of a candidate whose 38062
candidacy is to be considered by electors throughout the entire 38063
state shall be accepted for filing if it appears on its face to 38064

contain more than three times the minimum required number of 38065
signatures. A board of elections shall not accept for filing a 38066
nominating petition of a person seeking to become a candidate if 38067
that person, for the same election, has already filed a 38068
declaration of candidacy, a declaration of intent to be a write-in 38069
candidate, or a nominating petition, or has become a candidate by 38070
the filling of a vacancy under section 3513.30 of the Revised Code 38071
for any federal, state, or county office, if the nominating 38072
petition is for a state or county office, or for any municipal or 38073
township office, for member of a city, local, or exempted village 38074
board of education, or for member of a governing board of an 38075
educational service center, if the nominating petition is for a 38076
municipal or township office, or for member of a city, local, or 38077
exempted village board of education, or for member of a governing 38078
board of an educational service center. When a petition of a 38079
candidate has been accepted for filing by a board of elections, 38080
the petition shall not be deemed invalid if, upon verification of 38081
signatures contained in the petition, the board of elections finds 38082
the number of signatures accepted exceeds three times the minimum 38083
number of signatures required. A board of elections may 38084
discontinue verifying signatures when the number of verified 38085
signatures on a petition equals the minimum required number of 38086
qualified signatures. 38087

Any nonjudicial candidate who files a nominating petition may 38088
request, at the time of filing, that the candidate be designated 38089
on the ballot as a nonparty candidate or as an other-party 38090
candidate, or may request that the candidate's name be placed on 38091
the ballot without any designation. Any such candidate who fails 38092
to request a designation either as a nonparty candidate or as an 38093
other-party candidate shall have the candidate's name placed on 38094
the ballot without any designation. 38095

The purpose of establishing a filing deadline for independent 38096

candidates prior to the primary election immediately preceding the
general election at which the candidacy is to be voted on by the
voters is to recognize that the state has a substantial and
compelling interest in protecting its electoral process by
encouraging political stability, ensuring that the winner of the
election will represent a majority of the community, providing the
electorate with an understandable ballot, and enhancing voter
education, thus fostering informed and educated expressions of the
popular will in a general election. The filing deadline for
independent candidates required in this section prevents
splintered parties and unrestrained factionalism, avoids political
fragmentation, and maintains the integrity of the ballot. The
deadline, one day prior to the primary election, is the least
drastic or restrictive means of protecting these state interests.
The general assembly finds that the filing deadline for
independent candidates in primary elections required in this
section is reasonably related to the state's purpose of ensuring
fair and honest elections while leaving unimpaired the political,
voting, and associational rights secured by the first and
fourteenth amendments to the United States Constitution.

Sec. 3513.259. Nominations of candidates for the office of
member of the state board of education shall be made only by
nominating petition. The nominating petition of a candidate for
the office of member of the state board of education shall be
signed by not less than one hundred qualified electors.

No such nominating petition shall be accepted for filing if
it appears on its face to contain signatures aggregating in number
more than three times the minimum number of signatures required by
this section. A board of elections shall not accept for filing a
nominating petition of a person if that person, for the same
election, has already filed a declaration of candidacy, a

declaration of intent to be a write-in candidate, or a nominating
petition, or has become a candidate through party nomination at a
primary election or by the filling of a vacancy under section
3513.30 or 3513.31 of the Revised Code, to be a candidate for any
other state office or any federal or county office. When a
petition of a candidate has been accepted for filing by a board of
elections, the petition shall not be deemed invalid if, upon
verification of signatures contained in the petition, the board of
elections finds the number of signatures accepted exceeds three
times the minimum number of signatures required. A board of
elections may discontinue verifying signatures when the number of
verified signatures equals the minimum required number of
signatures. Such petition shall be filed with the board of
elections of the most populous county in such district not later
than four p.m. of the seventy-fifth day before the day of the
general election at which state board of education members are
elected.

Each nominating petition shall be signed by qualified
electors residing in the district in which the candidate
designated therein would be a candidate for election to the office
of member of the state board of education. Each candidate shall be
a qualified elector residing in the district in which the
candidate seeks election to such office.

As the word "district" is used in this section, it refers to
a district created under section 3301.01 of the Revised Code.

Sec. 3513.261. A nominating petition may consist of one or
more separate petition papers, each of which shall be
substantially in the form prescribed in this section. If the
petition consists of more than one separate petition paper, the
statement of candidacy of the candidate or joint candidates named
need be signed by the candidate or joint candidates on only one of

such separate petition papers, but the statement of candidacy so 38159
signed shall be copied on each other separate petition paper 38160
before the signatures of electors are placed on it. Each 38161
nominating petition containing signatures of electors of more than 38162
one county shall consist of separate petition papers each of which 38163
shall contain signatures of electors of only one county; provided 38164
that petitions containing signatures of electors of more than one 38165
county shall not thereby be declared invalid. In case petitions 38166
containing signatures of electors of more than one county are 38167
filed, the board of elections shall determine the county from 38168
which the majority of the signatures came, and only signatures 38169
from this county shall be counted. Signatures from any other 38170
county shall be invalid. 38171

All signatures on nominating petitions shall be written in 38172
ink or indelible pencil. 38173

At the time of filing a nominating petition, the candidate 38174
designated in the nominating petition, and joint candidates for 38175
governor and lieutenant governor, shall pay to the election 38176
officials with whom it is filed the fees specified for the office 38177
under divisions (A) and (B) of section 3513.10 of the Revised 38178
Code. The fees shall be disposed of by those election officials in 38179
the manner that is provided in section 3513.10 of the Revised Code 38180
for the disposition of other fees, and in no case shall a fee 38181
required under that section be returned to a candidate. 38182

Candidates or joint candidates whose names are written on the 38183
ballot, and who are elected, shall pay the same fees under section 38184
3513.10 of the Revised Code that candidates who file nominating 38185
petitions pay. Payment of these fees shall be a condition 38186
precedent to the granting of their certificates of election. 38187

Each nominating petition shall contain a statement of 38188
candidacy that shall be signed by the candidate or joint 38189
candidates named in it. Such statement of candidacy shall contain 38190

a declaration made under penalty of election falsification that 38191
the candidate desires to be a candidate for the office named in 38192
it, and that the candidate is an elector qualified to vote for the 38193
office the candidate seeks. 38194

The form of the nominating petition and statement of 38195
candidates shall be substantially as follows: 38196

"STATEMENT OF CANDIDACY 38197

I, (Name of candidate), 38198
the undersigned, hereby declare under penalty of election 38199
falsification that my voting residence is in 38200
..... Precinct of the (Township) or 38201
(Ward and City, or Village) in the county of Ohio; 38202
that my post-office address is 38203
(Street and Number, if any, or Rural Route and Number) of the 38204
..... (City, Village, or post office) of 38205
....., Ohio; and that I am a qualified elector in 38206
the precinct in which my voting residence is located. I hereby 38207
declare that I desire to be a candidate for election to the office 38208
of in the (State, 38209
District, County, City, Village, Township, or School District) for 38210
the (Full term or unexpired 38211
term ending) at the General Election to be held 38212
on the day of, 38213

I further declare that I am an elector qualified to vote for 38214
the office I seek. Dated this day of, 38215

..... 38216

(Signature of candidate) 38217

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY 38218
OF THE FIFTH DEGREE. 38219

I,, hereby constitute the 38220
persons named below a committee to represent me: 38221

Name	Residence	38222
.....		38223
.....		38224
.....		38225
.....		38226
.....		38227

NOMINATING PETITION

		38228
We, the undersigned, qualified electors of the state of Ohio,		38229
whose voting residence is in the County, City, Village, Ward,		38230
Township or Precinct set opposite our names, hereby nominate		38231
..... as a candidate for election to the office of		38232
..... in the		38233
(State, District, County, City, Village, Township, or School		38234
District) for the (Full term or unexpired term		38235
ending) to be voted for at the general		38236
election next hereafter to be held, and certify that this person		38237
is, in our opinion, well qualified to perform the duties of the		38238
office or position to which the person desires to be elected.		38239
		38240

Street		38241
Address		38242
or R.F.D.		38243
(Must use		38244
address on City,		38245
file with Village		38246
the board of or	Date of	38247
Signature elections)	Township Ward Precinct County Signing	38248
		38249

.....		38250
.....		38251
.....		38252

....., declares under penalty of election 38253
falsification that such person is a qualified elector of the state 38254
of Ohio and resides at the address appearing below such person's 38255
signature hereto; that such person is the circulator of the 38256
foregoing petition paper containing signatures; 38257
that such person witnessed the affixing of every signature; that 38258
all signers were to the best of such person's knowledge and belief 38259
qualified to sign; and that every signature is to the best of such 38260
person's knowledge and belief the signature of the person whose 38261
signature it purports to be. 38262
..... 38263
(Signature of circulator) 38264
..... 38265
(Address) 38266
..... 38267
(If petition is for a statewide 38268
candidate, the name and address 38269
of person employing circulator 38270
to circulate petition, if any) 38271

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY 38272
OF THE FIFTH DEGREE." 38273

The secretary of state shall prescribe a form of nominating 38274
petition for a group of candidates for the office of member of a 38275
board of education, township office, and offices of municipal 38276
corporations of under two thousand population. 38277

The secretary of state shall prescribe a form of statement of 38278
candidacy and nominating petition, which shall be substantially 38279
similar to the form of statement of candidacy and nominating 38280
petition set forth in this section, that will be suitable for 38281
joint candidates for the offices of governor and lieutenant 38282
governor. 38283

If such petition nominates a candidate whose election is to be determined by the electors of a county or a district or subdivision within the county, it shall be filed with the board of such county. If the petition nominates a candidate whose election is to be determined by the voters of a subdivision located in more than one county, it shall be filed with the board of the county in which the major portion of the population of such subdivision is located.

If the petition nominates a candidate whose election is to be determined by the electors of a district comprised of more than one county but less than all of the counties of the state, it shall be filed with the board of elections of the most populous county in such district. If the petition nominates a candidate whose election is to be determined by the electors of the state at large, it shall be filed with the secretary of state.

The secretary of state or a board of elections shall not accept for filing a nominating petition of a person seeking to become a candidate if that person, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or has become a candidate through party nomination at a primary election or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code for any federal, state, or county office, if the nominating petition is for a state or county office, or for any municipal or township office, for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center, if the nominating petition is for a municipal or township office, or for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center.

Sec. 3517.13. (A)(1) No campaign committee of a statewide

candidate shall fail to file a complete and accurate statement 38315
required under division (A)(1) of section 3517.10 of the Revised 38316
Code. 38317

(2) No campaign committee of a statewide candidate shall fail 38318
to file a complete and accurate monthly statement, and no campaign 38319
committee of a statewide candidate or a candidate for the office 38320
of chief justice or justice of the supreme court shall fail to 38321
file a complete and accurate two-business-day statement, as 38322
required under section 3517.10 of the Revised Code. 38323

As used in this division, "statewide candidate" has the same 38324
meaning as in division (F)(2) of section 3517.10 of the Revised 38325
Code. 38326

(B) No campaign committee shall fail to file a complete and 38327
accurate statement required under division (A)(1) of section 38328
3517.10 of the Revised Code. 38329

(C) No campaign committee shall fail to file a complete and 38330
accurate statement required under division (A)(2) of section 38331
3517.10 of the Revised Code. 38332

(D) No campaign committee shall fail to file a complete and 38333
accurate statement required under division (A)(3) or (4) of 38334
section 3517.10 of the Revised Code. 38335

(E) No person other than a campaign committee shall knowingly 38336
fail to file a statement required under section 3517.10 or 38337
3517.107 of the Revised Code. 38338

(F) No person shall make cash contributions to any person 38339
totaling more than one hundred dollars in each primary, special, 38340
or general election. 38341

(G)(1) No person shall knowingly conceal or misrepresent 38342
contributions given or received, expenditures made, or any other 38343
information required to be reported by a provision in sections 38344

3517.08 to 3517.13 and 3517.17 of the Revised Code. 38345

(2)(a) No person shall make a contribution to a campaign 38346
committee, political action committee, political contributing 38347
entity, legislative campaign fund, political party, or person 38348
making disbursements to pay the direct costs of producing or 38349
airing electioneering communications in the name of another 38350
person. 38351

(b) A person does not make a contribution in the name of 38352
another when either of the following applies: 38353

(i) An individual makes a contribution from a partnership or 38354
other unincorporated business account, if the contribution is 38355
reported by listing both the name of the partnership or other 38356
unincorporated business and the name of the partner or owner 38357
making the contribution as required under division (I) of section 38358
3517.10 of the Revised Code. 38359

(ii) A person makes a contribution in that person's spouse's 38360
name or in both of their names. 38361

(H) No person within this state, publishing a newspaper or 38362
other periodical, shall charge a campaign committee for political 38363
advertising a rate in excess of the rate such person would charge 38364
if the campaign committee were a general rate advertiser whose 38365
advertising was directed to promoting its business within the same 38366
area as that encompassed by the particular office that the 38367
candidate of the campaign committee is seeking. The rate shall 38368
take into account the amount of space used, as well as the type of 38369
advertising copy submitted by or on behalf of the campaign 38370
committee. All discount privileges otherwise offered by a 38371
newspaper or periodical to general rate advertisers shall be 38372
available upon equal terms to all campaign committees. 38373

No person within this state, operating a radio or television 38374
station or network of stations in this state, shall charge a 38375

campaign committee for political broadcasts a rate that exceeds: 38376

(1) During the forty-five days preceding the date of a 38377
primary election and during the sixty days preceding the date of a 38378
general or special election in which the candidate of the campaign 38379
committee is seeking office, the lowest unit charge of the station 38380
for the same class and amount of time for the same period; 38381

(2) At any other time, the charges made for comparable use of 38382
that station by its other users. 38383

(I) Subject to divisions (K), (L), (M), and (N) of this 38384
section, no agency or department of this state or any political 38385
subdivision shall award any contract, other than one let by 38386
competitive bidding or a contract incidental to such contract or 38387
which is by force account, for the purchase of goods costing more 38388
than five hundred dollars or services costing more than five 38389
hundred dollars to any individual, partnership, association, 38390
including, without limitation, a professional association 38391
organized under Chapter 1785. of the Revised Code, estate, or 38392
trust if the individual has made or the individual's spouse has 38393
made, or any partner, shareholder, administrator, executor, or 38394
trustee or the spouse of any of them has made, as an individual, 38395
within the two previous calendar years, one or more contributions 38396
totaling in excess of one thousand dollars to the holder of the 38397
public office having ultimate responsibility for the award of the 38398
contract or to the public officer's campaign committee. 38399

(J) Subject to divisions (K), (L), (M), and (N) of this 38400
section, no agency or department of this state or any political 38401
subdivision shall award any contract, other than one let by 38402
competitive bidding or a contract incidental to such contract or 38403
which is by force account, for the purchase of goods costing more 38404
than five hundred dollars or services costing more than five 38405
hundred dollars to a corporation or business trust, except a 38406

professional association organized under Chapter 1785. of the 38407
Revised Code, if an owner of more than twenty per cent of the 38408
corporation or business trust or the spouse of that person has 38409
made, as an individual, within the two previous calendar years, 38410
taking into consideration only owners for all of that period, one 38411
or more contributions totaling in excess of one thousand dollars 38412
to the holder of a public office having ultimate responsibility 38413
for the award of the contract or to the public officer's campaign 38414
committee. 38415

(K) For purposes of divisions (I) and (J) of this section, if 38416
a public officer who is responsible for the award of a contract is 38417
appointed by the governor, whether or not the appointment is 38418
subject to the advice and consent of the senate, excluding members 38419
of boards, commissions, committees, authorities, councils, boards 38420
of trustees, task forces, and other such entities appointed by the 38421
governor, the office of the governor is considered to have 38422
ultimate responsibility for the award of the contract. 38423

(L) For purposes of divisions (I) and (J) of this section, if 38424
a public officer who is responsible for the award of a contract is 38425
appointed by the elected chief executive officer of a municipal 38426
corporation, or appointed by the elected chief executive officer 38427
of a county operating under an alternative form of county 38428
government or county charter, excluding members of boards, 38429
commissions, committees, authorities, councils, boards of 38430
trustees, task forces, and other such entities appointed by the 38431
chief executive officer, the office of the chief executive officer 38432
is considered to have ultimate responsibility for the award of the 38433
contract. 38434

(M)(1) Divisions (I) and (J) of this section do not apply to 38435
contracts awarded by the board of commissioners of the sinking 38436
fund, municipal legislative authorities, boards of education, 38437
boards of county commissioners, boards of township trustees, or 38438

other boards, commissions, committees, authorities, councils, 38439
boards of trustees, task forces, and other such entities created 38440
by law, by the supreme court or courts of appeals, by county 38441
courts consisting of more than one judge, courts of common pleas 38442
consisting of more than one judge, or municipal courts consisting 38443
of more than one judge, or by a division of any court if the 38444
division consists of more than one judge. This division shall 38445
apply to the specified entity only if the members of the entity 38446
act collectively in the award of a contract for goods or services. 38447

(2) Divisions (I) and (J) of this section do not apply to 38448
actions of the controlling board. 38449

(N)(1) Divisions (I) and (J) of this section apply to 38450
contributions made to the holder of a public office having 38451
ultimate responsibility for the award of a contract, or to the 38452
public officer's campaign committee, during the time the person 38453
holds the office and during any time such person was a candidate 38454
for the office. Those divisions do not apply to contributions made 38455
to, or to the campaign committee of, a candidate for or holder of 38456
the office other than the holder of the office at the time of the 38457
award of the contract. 38458

(2) Divisions (I) and (J) of this section do not apply to 38459
contributions of a partner, shareholder, administrator, executor, 38460
trustee, or owner of more than twenty per cent of a corporation or 38461
business trust made before the person held any of those positions 38462
or after the person ceased to hold any of those positions in the 38463
partnership, association, estate, trust, corporation, or business 38464
trust whose eligibility to be awarded a contract is being 38465
determined, nor to contributions of the person's spouse made 38466
before the person held any of those positions, after the person 38467
ceased to hold any of those positions, before the two were 38468
married, after the granting of a decree of divorce, dissolution of 38469
marriage, or annulment, or after the granting of an order in an 38470

action brought solely for legal separation. Those divisions do not 38471
apply to contributions of the spouse of an individual whose 38472
eligibility to be awarded a contract is being determined made 38473
before the two were married, after the granting of a decree of 38474
divorce, dissolution of marriage, or annulment, or after the 38475
granting of an order in an action brought solely for legal 38476
separation. 38477

(0) No beneficiary of a campaign fund or other person shall 38478
convert for personal use, and no person shall knowingly give to a 38479
beneficiary of a campaign fund or any other person, for the 38480
beneficiary's or any other person's personal use, anything of 38481
value from the beneficiary's campaign fund, including, without 38482
limitation, payments to a beneficiary for services the beneficiary 38483
personally performs, except as reimbursement for any of the 38484
following: 38485

(1) Legitimate and verifiable prior campaign expenses 38486
incurred by the beneficiary; 38487

(2) Legitimate and verifiable ordinary and necessary prior 38488
expenses incurred by the beneficiary in connection with duties as 38489
the holder of a public office, including, without limitation, 38490
expenses incurred through participation in nonpartisan or 38491
bipartisan events if the participation of the holder of a public 38492
office would normally be expected; 38493

(3) Legitimate and verifiable ordinary and necessary prior 38494
expenses incurred by the beneficiary while doing any of the 38495
following: 38496

(a) Engaging in activities in support of or opposition to a 38497
candidate other than the beneficiary, political party, or ballot 38498
issue; 38499

(b) Raising funds for a political party, political action 38500
committee, political contributing entity, legislative campaign 38501

fund, campaign committee, or other candidate;	38502
(c) Participating in the activities of a political party,	38503
political action committee, political contributing entity,	38504
legislative campaign fund, or campaign committee;	38505
(d) Attending a political party convention or other political	38506
meeting.	38507
For purposes of this division, an expense is incurred	38508
whenever a beneficiary has either made payment or is obligated to	38509
make payment, as by the use of a credit card or other credit	38510
procedure or by the use of goods or services received on account.	38511
(P) No beneficiary of a campaign fund shall knowingly accept,	38512
and no person shall knowingly give to the beneficiary of a	38513
campaign fund, reimbursement for an expense under division (O) of	38514
this section to the extent that the expense previously was	38515
reimbursed or paid from another source of funds. If an expense is	38516
reimbursed under division (O) of this section and is later paid or	38517
reimbursed, wholly or in part, from another source of funds, the	38518
beneficiary shall repay the reimbursement received under division	38519
(O) of this section to the extent of the payment made or	38520
reimbursement received from the other source.	38521
(Q) No candidate or public official or employee shall accept	38522
for personal or business use anything of value from a political	38523
party, political action committee, political contributing entity,	38524
legislative campaign fund, or campaign committee other than the	38525
candidate's or public official's or employee's own campaign	38526
committee, and no person shall knowingly give to a candidate or	38527
public official or employee anything of value from a political	38528
party, political action committee, political contributing entity,	38529
legislative campaign fund, or such a campaign committee, except	38530
for the following:	38531
(1) Reimbursement for legitimate and verifiable ordinary and	38532

necessary prior expenses not otherwise prohibited by law incurred 38533
by the candidate or public official or employee while engaged in 38534
any legitimate activity of the political party, political action 38535
committee, political contributing entity, legislative campaign 38536
fund, or such campaign committee. Without limitation, reimbursable 38537
expenses under this division include those incurred while doing 38538
any of the following: 38539

(a) Engaging in activities in support of or opposition to 38540
another candidate, political party, or ballot issue; 38541

(b) Raising funds for a political party, legislative campaign 38542
fund, campaign committee, or another candidate; 38543

(c) Attending a political party convention or other political 38544
meeting. 38545

(2) Compensation not otherwise prohibited by law for actual 38546
and valuable personal services rendered under a written contract 38547
to the political party, political action committee, political 38548
contributing entity, legislative campaign fund, or such campaign 38549
committee for any legitimate activity of the political party, 38550
political action committee, political contributing entity, 38551
legislative campaign fund, or such campaign committee. 38552

Reimbursable expenses under this division do not include, and 38553
it is a violation of this division for a candidate or public 38554
official or employee to accept, or for any person to knowingly 38555
give to a candidate or public official or employee from a 38556
political party, political action committee, political 38557
contributing entity, legislative campaign fund, or campaign 38558
committee other than the candidate's or public official's or 38559
employee's own campaign committee, anything of value for 38560
activities primarily related to the candidate's or public 38561
official's or employee's own campaign for election, except for 38562
contributions to the candidate's or public official's or 38563

employee's campaign committee. 38564

For purposes of this division, an expense is incurred 38565
whenever a candidate or public official or employee has either 38566
made payment or is obligated to make payment, as by the use of a 38567
credit card or other credit procedure, or by the use of goods or 38568
services on account. 38569

(R)(1) Division (O) or (P) of this section does not prohibit 38570
a campaign committee from making direct advance or post payment 38571
from contributions to vendors for goods and services for which 38572
reimbursement is permitted under division (O) of this section, 38573
except that no campaign committee shall pay its candidate or other 38574
beneficiary for services personally performed by the candidate or 38575
other beneficiary. 38576

(2) If any expense that may be reimbursed under division (O), 38577
(P), or (Q) of this section is part of other expenses that may not 38578
be paid or reimbursed, the separation of the two types of expenses 38579
for the purpose of allocating for payment or reimbursement those 38580
expenses that may be paid or reimbursed may be by any reasonable 38581
accounting method, considering all of the surrounding 38582
circumstances. 38583

(3) For purposes of divisions (O), (P), and (Q) of this 38584
section, mileage allowance at a rate not greater than that allowed 38585
by the internal revenue service at the time the travel occurs may 38586
be paid instead of reimbursement for actual travel expenses 38587
allowable. 38588

(S)(1) As used in division (S) of this section: 38589

(a) "State elective office" has the same meaning as in 38590
section 3517.092 of the Revised Code. 38591

(b) "Federal office" means a federal office as defined in the 38592
Federal Election Campaign Act. 38593

(c) "Federal campaign committee" means a principal campaign committee or authorized committee as defined in the Federal Election Campaign Act. 38594
38595
38596

(2) No person who is a candidate for state elective office and who previously sought nomination or election to a federal office shall transfer any funds or assets from that person's federal campaign committee for nomination or election to the federal office to that person's campaign committee as a candidate for state elective office. 38597
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(3) No campaign committee of a person who is a candidate for state elective office and who previously sought nomination or election to a federal office shall accept any funds or assets from that person's federal campaign committee for that person's nomination or election to the federal office. 38603
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38607

(T)(1) Except as otherwise provided in division (B)(6)(c) of section 3517.102 of the Revised Code, a state or county political party shall not disburse moneys from any account other than a state candidate fund to make contributions to any of the following: 38608
38609
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(a) A state candidate fund; 38613

(b) A legislative campaign fund; 38614

(c) A campaign committee of a candidate for the office of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, or member of the general assembly. 38615
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(2) No state candidate fund, legislative campaign fund, or campaign committee of a candidate for any office described in division (T)(1)(c) of this section shall knowingly accept a contribution in violation of division (T)(1) of this section. 38619
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(U) No person shall fail to file the statement required under 38623

section 3517.12 of the Revised Code. 38624

(V) No campaign committee shall fail to file a statement 38625
required under division (K)(3) of section 3517.10 of the Revised 38626
Code. 38627

(W)(1) No foreign national shall, directly or indirectly 38628
through any other person or entity, make a contribution, 38629
expenditure, or independent expenditure or promise, either 38630
expressly or implicitly, to make a contribution, expenditure, or 38631
independent expenditure in support of or opposition to a candidate 38632
for any elective office in this state, including an office of a 38633
political party. 38634

(2) No candidate, campaign committee, political action 38635
committee, political contributing entity, legislative campaign 38636
fund, state candidate fund, political party, or separate 38637
segregated fund shall solicit or accept a contribution, 38638
expenditure, or independent expenditure from a foreign national. 38639
The secretary of state may direct any candidate, committee, 38640
entity, fund, or party that accepts a contribution, expenditure, 38641
or independent expenditure in violation of this division to return 38642
the contribution, expenditure, or independent expenditure or, if 38643
it is not possible to return the contribution, expenditure, or 38644
independent expenditure, then to return instead the value of it, 38645
to the contributor. 38646

(3) As used in division (W) of this section, "foreign 38647
national" has the same meaning as in section 441e(b) of the 38648
Federal Election Campaign Act. 38649

(X)(1) No state or county political party shall transfer any 38650
moneys from its restricted fund to any account of the political 38651
party into which contributions may be made or from which 38652
contributions or expenditures may be made. 38653

(2)(a) No state or county political party shall deposit a 38654

contribution or contributions that it receives into its restricted fund. 38655
38656

(b) No state or county political party shall make a contribution or an expenditure from its restricted fund. 38657
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(3)(a) No corporation or labor organization shall make a gift or gifts from the corporation's or labor organization's money or property aggregating more than ten thousand dollars to any one state or county political party for the party's restricted fund in a calendar year. 38659
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(b) No state or county political party shall accept a gift or gifts for the party's restricted fund aggregating more than ten thousand dollars from any one corporation or labor organization in a calendar year. 38664
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(4) No state or county political party shall transfer any moneys in the party's restricted fund to any other state or county political party. 38668
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(5) No state or county political party shall knowingly fail to file a statement required under section 3517.1012 of the Revised Code. 38671
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(Y) The administrator of workers' compensation and the employees of the bureau of workers' compensation shall not conduct any business with or award any contract, other than one awarded by competitive bidding, for the purchase of goods costing more than five hundred dollars or services costing more than five hundred dollars to any individual, partnership, association, including, without limitation, a professional association organized under Chapter 1785. of the Revised Code, estate, or trust, if the individual has made, or the individual's spouse has made, or any partner, shareholder, administrator, executor, or trustee, or the spouses of any of those individuals has made, as an individual, within the two previous calendar years, one or more contributions 38674
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totaling in excess of one thousand dollars to the campaign 38686
committee of the governor or lieutenant governor or to the 38687
campaign committee of any candidate for the office of governor or 38688
lieutenant governor. 38689

(Z) The administrator of workers' compensation and the 38690
employees of the bureau of workers' compensation shall not conduct 38691
business with or award any contract, other than one awarded by 38692
competitive bidding, for the purchase of goods costing more than 38693
five hundred dollars or services costing more than five hundred 38694
dollars to a corporation or business trust, except a professional 38695
association organized under Chapter 1785. of the Revised Code, if 38696
an owner of more than twenty per cent of the corporation or 38697
business trust, or the spouse of the owner, has made, as an 38698
individual, within the two previous calendar years, taking into 38699
consideration only owners for all of such period, one or more 38700
contributions totaling in excess of one thousand dollars to the 38701
campaign committee of the governor or lieutenant governor or to 38702
the campaign committee of any candidate for the office of governor 38703
or lieutenant governor. 38704

Sec. 3517.151. (A) On and after January 1, 1996, complaints 38705
with respect to acts or failures to act under the sections listed 38706
in division (A) of section 3517.153 of the Revised Code shall be 38707
filed with the Ohio elections commission created under section 38708
3517.152 of the Revised Code. 38709

(B)(1) If a complaint filed with the Ohio elections 38710
commission created under section 3517.152 of the Revised Code 38711
alleges an act or failure to act that occurred before August 24, 38712
1995, and the commission imposes a fine, sections 3517.99 and 38713
3517.991 of the Revised Code, and not sections 3517.992 and 38714
3517.993 of the Revised Code, shall apply. 38715

(2) If a complaint filed with the Ohio elections commission 38716

created under section 3517.152 of the Revised Code alleges an act 38717
or failure to act that is a violation of section 3517.13 of the 38718
Revised Code, former divisions (A) to (R) of that section apply to 38719
the act or failure to act if it occurred before August 24, 1995, 38720
former divisions (A) to (U) of that section apply to the act or 38721
failure to act if it occurs on or after August 24, 1995, but 38722
before July 13, 1998, former divisions (A) to (V) of that section 38723
apply to the act or failure to act if it occurs on or after July 38724
13, 1998, but before December 22, 1999, former divisions (A) to 38725
(W) of that section apply to the act or failure to act if it 38726
occurs on or after December 22, 1999, but before ~~the effective~~ 38727
~~date of this amendment~~ March 31, 2005, and former divisions (A) to 38728
(X) of that section apply to the act or failure to act if it 38729
occurs on or after ~~the effective date of this amendment~~ March 31, 38730
2005, and divisions (A) to (Z) of that section apply to the act or 38731
failure to act if it occurs on or after the effective date of this 38732
amendment. 38733

(C) The Ohio elections commission created under section 38734
3517.14 of the Revised Code is abolished at the close of business 38735
on December 31, 1995. 38736

Sec. 3701.023. (A) The department of health shall review 38737
applications for eligibility for the program for medically 38738
handicapped children that are submitted to the department by city 38739
and general health districts and physician providers approved in 38740
accordance with division (C) of this section. The department shall 38741
determine whether the applicants meet the medical and financial 38742
eligibility requirements established by the public health council 38743
pursuant to division (A)(1) of section 3701.021 of the Revised 38744
Code, and by the department in the manual of operational 38745
procedures and guidelines for the program for medically 38746
handicapped children developed pursuant to division (B) of that 38747

section. Referrals of potentially eligible children for the 38748
program may be submitted to the department on behalf of the child 38749
by parents, guardians, public health nurses, or any other 38750
interested person. The department of health may designate other 38751
agencies to refer applicants to the department of health. 38752

(B) In accordance with the procedures established in rules 38753
adopted under division (A)(4) of section 3701.021 of the Revised 38754
Code, the department of health shall authorize a provider or 38755
providers to provide to any Ohio resident under twenty-one years 38756
of age, without charge to the resident or the resident's family 38757
and without restriction as to the economic status of the resident 38758
or the resident's family, diagnostic services necessary to 38759
determine whether the resident ~~suffers from~~ has a medically 38760
handicapping or potentially medically handicapping condition. 38761

(C) The department of health shall review the applications of 38762
health professionals, hospitals, medical equipment suppliers, and 38763
other individuals, groups, or agencies that apply to become 38764
providers. The department shall enter into a written agreement 38765
with each applicant who is determined, pursuant to the 38766
requirements set forth in rules adopted under division (A)(2) of 38767
section 3701.021 of the Revised Code, to be eligible to be a 38768
provider in accordance with the provider agreement required by the 38769
medical assistance program established under section 5111.01 of 38770
the Revised Code. No provider shall charge a medically handicapped 38771
child or the child's parent or guardian for services authorized by 38772
the department under division (B) or (D) of this section. 38773

The department, in accordance with rules adopted under 38774
division (A)(3) of section 3701.021 of the Revised Code, may 38775
disqualify any provider from further participation in the program 38776
for violating any requirement set forth in rules adopted under 38777
division (A)(2) of that section. The disqualification shall not 38778
take effect until a written notice, specifying the requirement 38779

violated and describing the nature of the violation, has been 38780
delivered to the provider and the department has afforded the 38781
provider an opportunity to appeal the disqualification under 38782
division (H) of this section. 38783

(D) The department of health shall evaluate applications from 38784
city and general health districts and approved physician providers 38785
for authorization to provide treatment services, service 38786
coordination, and related goods to children determined to be 38787
eligible for the program for medically handicapped children 38788
pursuant to division (A) of this section. The department shall 38789
authorize necessary treatment services, service coordination, and 38790
related goods for each eligible child in accordance with an 38791
individual plan of treatment for the child. As an alternative, the 38792
department may authorize payment of health insurance premiums on 38793
behalf of eligible children when the department determines, in 38794
accordance with criteria set forth in rules adopted under division 38795
(A)(9) of section 3701.021 of the Revised Code, that payment of 38796
the premiums is cost-effective. 38797

(E) The department of health shall pay, from appropriations 38798
to the department, any necessary expenses, including but not 38799
limited to, expenses for diagnosis, treatment, service 38800
coordination, supportive services, transportation, and accessories 38801
and their upkeep, provided to medically handicapped children, 38802
provided that the provision of the goods or services is authorized 38803
by the department under division (B) or (D) of this section. Money 38804
appropriated to the department of health may also be expended for 38805
reasonable administrative costs incurred by the program. The 38806
department of health also may purchase liability insurance 38807
covering the provision of services under the program for medically 38808
handicapped children by physicians and other health care 38809
professionals. 38810

Payments made to providers by the department of health 38811

pursuant to this division for inpatient hospital care, outpatient 38812
care, and all other medical assistance furnished ~~by hospitals~~ to 38813
eligible recipients ~~shall be in accordance with methods~~ 38814
~~established by rules of the public health council. Until such~~ 38815
~~rules are adopted, the department of health shall make payments to~~ 38816
~~hospitals in accordance with reasonable cost principles for~~ 38817
~~reimbursement under the medicare program established under Title~~ 38818
~~XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42~~ 38819
~~U.S.C.A. 1395, as amended. Payments to providers for goods or~~ 38820
~~services other than inpatient or outpatient hospital care shall be~~ 38821
made in accordance with rules adopted by the public health council 38822
pursuant to division (A) of section 3701.021 of the Revised Code. 38823

The departments of health and job and family services shall 38824
jointly implement procedures to ensure that duplicate payments are 38825
not made under the program for medically handicapped children and 38826
the medical assistance program established under section 5111.01 38827
of the Revised Code and to identify and recover duplicate 38828
payments. 38829

(F)~~(1)~~ At the time of applying for participation in the 38830
program for medically handicapped children, a medically 38831
handicapped child or the child's parent or guardian shall disclose 38832
the identity of any third party against whom the child or the 38833
child's parent or guardian has or may have a right of recovery for 38834
goods and services provided under division (B) or (D) of this 38835
section. ~~Except as provided in division (F)(2) of this section,~~ 38836
~~the~~ The department of health shall require a medically handicapped 38837
child who receives services from the program or the child's parent 38838
or guardian to apply for all third-party benefits for which the 38839
child may be eligible and require the child, parent, or guardian 38840
to apply all third-party benefits received to the amount 38841
determined under division (E) of this section as the amount 38842
payable for goods and services authorized under division (B) or 38843

(D) of this section. The department is the payer of last resort 38844
and shall pay for authorized goods or services, up to the amount 38845
determined under division (E) of this section for the authorized 38846
goods or services, only to the extent that payment for the 38847
authorized goods or services is not made through third-party 38848
benefits. When a third party fails to act on an application or 38849
claim for benefits by a medically handicapped child or the child's 38850
parent or guardian, the department shall pay for the goods or 38851
services only after ninety days have elapsed since the date the 38852
child, parents, or guardians made an application or claim for all 38853
third-party benefits, ~~except as provided in division (F)(2) of~~ 38854
~~this section.~~ Third-party benefits received shall be applied to 38855
the amount determined under division (E) of this section. 38856
Third-party payments for goods and services not authorized under 38857
division (B) or (D) of this section shall not be applied to 38858
payment amounts determined under division (E) of this section. 38859
Payment made by the department shall be considered payment in full 38860
of the amount determined under division (E) of this section. 38861
Medicaid payments for persons eligible for the medical assistance 38862
program established under section 5111.01 of the Revised Code 38863
shall be considered payment in full of the amount determined under 38864
division (E) of this section. 38865

~~(2) A medically handicapped child or the parent or guardian 38866
of such a child is not required to apply for assistance under the 38867
medical assistance program established under section 5111.01 of 38868
the Revised Code as a condition for eligibility under the program 38869
for medically handicapped children if applying for or receiving 38870
assistance under the medical assistance program violates a 38871
religious belief of the child, parent, or guardian and a tenet of 38872
the child's, parent's, or guardian's religion. 38873~~

(G) The department of health shall administer a program to 38874
provide services to Ohio residents who are twenty-one or more 38875

years of age who ~~are suffering from~~ have cystic fibrosis and who 38876
meet the eligibility requirements established by the rules of the 38877
public health council pursuant to division (A)(7) of section 38878
3701.021 of the Revised Code, subject to all provisions of this 38879
section, but not subject to section 3701.024 of the Revised Code. 38880

(H) The department of health shall provide for appeals, in 38881
accordance with rules adopted under section 3701.021 of the 38882
Revised Code, of denials of applications for the program for 38883
medically handicapped children under division (A) or (D) of this 38884
section, disqualification of providers, or amounts paid under 38885
division (E) of this section. Appeals under this division are not 38886
subject to Chapter 119. of the Revised Code. 38887

The department may designate ombudspersons to assist 38888
medically handicapped children or their parents or guardians, upon 38889
the request of the children, parents, or guardians, in filing 38890
appeals under this division and to serve as children's, parents', 38891
or guardians' advocates in matters pertaining to the 38892
administration of the program for medically handicapped children 38893
and eligibility for program services. The ombudspersons shall 38894
receive no compensation but shall be reimbursed by the department, 38895
in accordance with rules of the office of budget and management, 38896
for their actual and necessary travel expenses incurred in the 38897
performance of their duties. 38898

(I) The department of health, and city and general health 38899
districts providing service coordination pursuant to division 38900
(A)(2) of section 3701.024 of the Revised Code, shall provide 38901
service coordination in accordance with the standards set forth in 38902
the rules adopted under section 3701.021 of the Revised Code, 38903
without charge, and without restriction as to economic status. 38904

Sec. 3701.073. (A) The department of health is hereby 38905
designated as the state agency responsible for administering the 38906

medicare rural hospital flexibility program, as established in 42 38907
U.S.C. 1395i-4, as amended. 38908

(B) The director of health shall designate as a critical 38909
access hospital a hospital registered as an acute care hospital 38910
with the department under section 3701.07 of the Revised Code if 38911
the hospital meets the following requirements: 38912

(1) Has not more than twenty-five acute care and swing beds 38913
in use at any time for the furnishing of extended care or acute 38914
care inpatient services; 38915

(2) Has a length of stay not more than ninety-six hours per 38916
patient, on an annual average basis; 38917

(3) Provides inpatient, outpatient, emergency, laboratory, 38918
radiology, and twenty-four hour emergency care services; 38919

(4) Has network agreements in place for patient referral and 38920
transfer, a communication system for telemetry systems, electronic 38921
sharing of patient data, provision for emergency and non-emergency 38922
transportation, and assures credentialing and quality assurance; 38923

(5) Was certified as a critical access hospital by the 38924
centers for medicare and medicaid services between January 1, 38925
2001, and December 31, 2005, or is located in a rural area as 38926
identified below: 38927

(a) An area within an Ohio metropolitan area designated as a 38928
rural area by the United States department of health and human 38929
services, office of rural health policy, in accordance with 42 38930
C.F.R. 412.103 regarding rural urban commuting area codes four 38931
through ten in effect on the effective date of this section; 38932

(b) A non-metropolitan county as designated in United States 38933
office of management and budget bulletin no. 93-17, June 30, 1993, 38934
and its attachments; 38935

(c) A rural zip code within a metropolitan county as 38936
designated in United States office of management and budget 38937
bulletin no. 93-17, June 30, 1993, and its attachments. 38938

Sec. 3701.146. (A) In taking actions regarding tuberculosis, 38939
the director of health has all of the following duties and powers: 38940

~~(1) The director shall make payments to boards of county~~ 38941
~~commissioners in accordance with section 339.77 of the Revised~~ 38942
~~Code.~~ 38943

~~(2)~~ The director shall maintain registries of hospitals, 38944
clinics, physicians, or other care providers to whom the director 38945
shall refer persons who make inquiries to the department of health 38946
regarding possible exposure to tuberculosis. 38947

~~(3)~~(2) The director shall engage in tuberculosis surveillance 38948
activities, including the collection and analysis of 38949
epidemiological information relative to the frequency of 38950
tuberculosis infection, demographic and geographic distribution of 38951
tuberculosis cases, and trends pertaining to tuberculosis. 38952

~~(4)~~(3) The director shall maintain a tuberculosis registry to 38953
record the incidence of tuberculosis in this state. 38954

~~(5)~~(4) The director may appoint physicians to serve as 38955
tuberculosis consultants for geographic regions of the state 38956
specified by the director. Each tuberculosis consultant shall act 38957
in accordance with rules the director establishes and shall be 38958
responsible for advising and assisting physicians and other health 38959
care practitioners who participate in tuberculosis control 38960
activities and for reviewing medical records pertaining to the 38961
treatment provided to individuals with tuberculosis. 38962

(B)(1) The public health council shall adopt rules 38963
establishing standards for the following: 38964

(a) Performing tuberculosis screenings; 38965

(b) Performing examinations of individuals who have been exposed to tuberculosis and individuals who are suspected of having tuberculosis;	38966 38967 38968
(c) Providing treatment to individuals with tuberculosis;	38969
(d) Preventing individuals with communicable tuberculosis from infecting other individuals;	38970 38971
(e) Performing laboratory tests for tuberculosis and studies of the resistance of tuberculosis to one or more drugs;	38972 38973
(f) Selecting laboratories that provide in a timely fashion the results of a laboratory test for tuberculosis. The standards shall include a requirement that first consideration be given to laboratories located in this state.	38974 38975 38976 38977
(2) Rules adopted pursuant to this section shall be adopted in accordance with Chapter 119. of the Revised Code and may be consistent with any recommendations or guidelines on tuberculosis issued by the United States centers for disease control and prevention or by the American thoracic society. The rules shall apply to county or district tuberculosis control units, physicians who examine and treat individuals for tuberculosis, and laboratories that perform tests for tuberculosis.	38978 38979 38980 38981 38982 38983 38984 38985
Sec. 3701.65. (A) There is hereby created in the state treasury the "choose life" fund. The fund shall consist of the contributions that are paid to the registrar of motor vehicles by applicants who voluntarily elect to obtain "choose life" license plates pursuant to section 4503.91 of the Revised Code and any money returned to the fund under division (E)(1)(d) of this section. All investment earnings of the fund shall be credited to the fund.	38986 38987 38988 38989 38990 38991 38992 38993
(B)(1) At least annually, the director of health shall distribute the money in the fund to any private, nonprofit	38994 38995

organization that is eligible to receive funds under this section 38996
and that applies for funding under division (C) of this section. 38997

(2) The director shall distribute the funds based on the 38998
county in which the organization applying for funding is located 38999
and in proportion to the number of "choose life" license plates 39000
issued during the preceding year to vehicles registered in each 39001
county. Within each county, eligible organizations that apply for 39002
funding shall share equally in the funds available for 39003
distribution to organizations located within that county. 39004

(C) Any organization seeking funds under this section 39005
annually shall apply for distribution of the funds. The director 39006
shall develop an application form and may determine the schedule 39007
and procedures that an organization shall follow when annually 39008
applying for funds. The application shall inform the applicant of 39009
the conditions for receiving and using funds under division (E) of 39010
this section. The application shall require evidence that the 39011
organization meets all of the following requirements: 39012

(1) Is a private, nonprofit organization; 39013

(2) Is committed to counseling pregnant women about the 39014
option of adoption; 39015

(3) Provides services within the state to pregnant women who 39016
are planning to place their children for adoption, including 39017
counseling and meeting the material needs of the women; 39018

(4) Does not charge women for any services received; 39019

(5) Is not involved or associated with any abortion 39020
activities, including counseling for or referrals to abortion 39021
clinics, providing medical abortion-related procedures, or 39022
pro-abortion advertising; 39023

(6) Does not discriminate in its provision of any services on 39024
the basis of race, religion, color, age, marital status, national 39025

origin, handicap, gender, or age. 39026

(D) The director shall not distribute funds to an 39027
organization that does not provide verifiable evidence of the 39028
requirements specified in the application under division (C) of 39029
this section and shall not provide additional funds to any 39030
organization that fails to comply with division (E) of this 39031
section in regard to its previous receipt of funds under this 39032
section. 39033

(E)(1) An organization receiving funds under this section 39034
shall do all of the following: 39035

(a) Use not more than sixty per cent of the funds distributed 39036
to it for the material needs of pregnant women who are planning to 39037
place their children for adoption or for infants awaiting 39038
placement with adoptive parents, including clothing, housing, 39039
medical care, food, utilities, and transportation; 39040

(b) Use not more than forty per cent of the funds distributed 39041
to it for counseling, training, or advertising; 39042

(c) Not use any of the funds distributed to it for 39043
administrative expenses, legal expenses, or capital expenditures; 39044

(d) Annually return to the fund created under division (A) of 39045
this section any unused money that exceeds ten per cent of the 39046
money distributed to the organization. 39047

(2) The organization annually shall submit to the director an 39048
audited financial statement verifying its compliance with division 39049
(E)(1) of this section. 39050

(F) The director, in accordance with Chapter 119. of the 39051
Revised Code, shall adopt rules to implement this section. 39052

It is not the intent of the general assembly that the 39053
department create a new position within the department to 39054
implement and administer this section. It is the intent of the 39055

general assembly that the implementation and administration of 39056
this section be accomplished by existing department personnel. 39057

Sec. 3702.141. (A) As used in this section: 39058

(1) "~~existing~~ Existing health care facility" ~~has~~ means a 39059
health care facility that is licensed or otherwise approved to 39060
practice in this state, in accordance with applicable law, is 39061
staffed and equipped to provide health care services, and actively 39062
provides health services or has not been actively providing health 39063
services for less than twelve consecutive months. 39064

(2) "Health care facility" and "health service" have the same 39065
meaning meanings as in section 3702.51 of the Revised Code. 39066

(B) Section 3702.14 of the Revised Code shall not be 39067
construed to require any existing health care facility that is 39068
conducting an activity specified in section 3702.11 of the Revised 39069
Code, which activity was initiated on or before March 20, 1997, to 39070
alter, upgrade, or otherwise improve the structure or fixtures of 39071
the facility in order to comply with any rule adopted under 39072
section 3702.11 of the Revised Code relating to that activity, 39073
unless one of the following applies: 39074

(1) The facility initiates a construction, renovation, or 39075
reconstruction project that involves a capital expenditure of at 39076
least fifty thousand dollars, not including expenditures for 39077
equipment or staffing or operational costs, and that directly 39078
involves the area in which the existing service is conducted. 39079

(2) The facility initiates another activity specified in 39080
section 3702.11 of the Revised Code. 39081

(3) The facility initiates a service level designation change 39082
for obstetric and newborn care. 39083

(4) The facility proposes to add a cardiac catheterization 39084
laboratory to an existing cardiac catheterization service. 39085

(5) The facility proposes to add an open-heart operating room 39086
to an existing open-heart surgery service. 39087

(6) The director of health determines, by clear and 39088
convincing evidence, that failure to comply with the rule would 39089
create an imminent risk to the health and welfare of any patient. 39090

(C) If division (B)(4) or (5) of this section applies, any 39091
alteration, upgrade, or other improvement required shall apply 39092
only to the proposed addition to the existing service if the cost 39093
of the addition is less than the capital expenditure threshold set 39094
forth in division (B)(1) of this section. 39095

(D) No person or government entity shall divide or otherwise 39096
segment a construction, renovation, or reconstruction project in 39097
order to evade application of the capital expenditure threshold 39098
set forth in division (B)(1) of this section. 39099

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the 39100
Revised Code: 39101

(A) "Applicant" means any person that submits an application 39102
for a certificate of need and who is designated in the application 39103
as the applicant. 39104

(B) "Person" means any individual, corporation, business 39105
trust, estate, firm, partnership, association, joint stock 39106
company, insurance company, government unit, or other entity. 39107

(C) "Certificate of need" means a written approval granted by 39108
the director of health to an applicant to authorize conducting a 39109
reviewable activity. 39110

(D) "Health service area" means a geographic region 39111
designated by the director of health under section 3702.58 of the 39112
Revised Code. 39113

(E) "Health service" means a clinically related service, such 39114

as a diagnostic, treatment, rehabilitative, or preventive service.	39115
(F) "Health service agency" means an agency designated to	39116
serve a health service area in accordance with section 3702.58 of	39117
the Revised Code.	39118
(G) "Health care facility" means:	39119
(1) A hospital registered under section 3701.07 of the	39120
Revised Code;	39121
(2) A nursing home licensed under section 3721.02 of the	39122
Revised Code, or by a political subdivision certified under	39123
section 3721.09 of the Revised Code;	39124
(3) A county home or a county nursing home as defined in	39125
section 5155.31 of the Revised Code that is certified under Title	39126
XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42	39127
U.S.C.A. 301, as amended;	39128
(4) A freestanding dialysis center;	39129
(5) A freestanding inpatient rehabilitation facility;	39130
(6) An ambulatory surgical facility;	39131
(7) A freestanding cardiac catheterization facility;	39132
(8) A freestanding birthing center;	39133
(9) A freestanding or mobile diagnostic imaging center;	39134
(10) A freestanding radiation therapy center.	39135
A health care facility does not include the offices of	39136
private physicians and dentists whether for individual or group	39137
practice, residential facilities licensed under section 5123.19 of	39138
the Revised Code, or habilitation centers certified by the	39139
director of mental retardation and developmental disabilities	39140
under section 5123.041 of the Revised Code, or an institution for	39141
the sick that is operated exclusively for patients who use	39142
spiritual means for healing and for whom the acceptance of medical	39143

care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.

(H) "Medical equipment" means a single unit of medical equipment or a single system of components with related functions that is used to provide health services.

(I) "Third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, a health maintenance organization as defined in division (K) of this section, an insurance company that issues sickness and accident insurance in conformity with Chapter 3923. of the Revised Code, a state-financed health insurance program under Chapter 3701., 4123., or 5111. of the Revised Code, or any self-insurance plan.

(J) "Government unit" means the state and any county, municipal corporation, township, or other political subdivision of the state, or any department, division, board, or other agency of the state or a political subdivision.

(K) "Health maintenance organization" means a public or private organization organized under the law of any state that is qualified under section 1310(d) of Title XIII of the "Public Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9.

(L) "Existing health care facility" means a either of the following:

(1) A health care facility that is licensed or otherwise ~~approved~~ authorized to ~~practice~~ operate in this state, in accordance with applicable law, is staffed and equipped to provide health care services, and is actively ~~provides~~ providing health

~~services or has not been actively providing health services for 39175
less than twelve consecutive months; 39176~~

(2) A health care facility that is licensed or has beds 39177
registered under section 3701.07 of the Revised Code as skilled 39178
nursing beds or long-term care beds and has provided services for 39179
at least three hundred sixty-five consecutive days within the 39180
twenty-four months immediately preceding the date a certificate of 39181
need application is filed with the director of health. 39182

(M) "State" means the state of Ohio, including, but not 39183
limited to, the general assembly, the supreme court, the offices 39184
of all elected state officers, and all departments, boards, 39185
offices, commissions, agencies, institutions, and other 39186
instrumentalities of the state of Ohio. "State" does not include 39187
political subdivisions. 39188

(N) "Political subdivision" means a municipal corporation, 39189
township, county, school district, and all other bodies corporate 39190
and politic responsible for governmental activities only in 39191
geographic areas smaller than that of the state to which the 39192
sovereign immunity of the state attaches. 39193

(O) "Affected person" means: 39194

(1) An applicant for a certificate of need, including an 39195
applicant whose application was reviewed comparatively with the 39196
application in question; 39197

(2) The person that requested the reviewability ruling in 39198
question; 39199

(3) Any person that resides or regularly uses health care 39200
facilities within the geographic area served or to be served by 39201
the health care services that would be provided under the 39202
certificate of need or reviewability ruling in question; 39203

(4) Any health care facility that is located in the health 39204

service area where the health care services would be provided	39205
under the certificate of need or reviewability ruling in question;	39206
(5) Third-party payers that reimburse health care facilities	39207
for services in the health service area where the health care	39208
services would be provided under the certificate of need or	39209
reviewability ruling in question;	39210
(6) Any other person who testified at a public hearing held	39211
under division (B) of section 3702.52 of the Revised Code or	39212
submitted written comments in the course of review of the	39213
certificate of need application in question.	39214
(P) "Osteopathic hospital" means a hospital registered under	39215
section 3701.07 of the Revised Code that advocates osteopathic	39216
principles and the practice and perpetuation of osteopathic	39217
medicine by doing any of the following:	39218
(1) Maintaining a department or service of osteopathic	39219
medicine or a committee on the utilization of osteopathic	39220
principles and methods, under the supervision of an osteopathic	39221
physician;	39222
(2) Maintaining an active medical staff, the majority of	39223
which is comprised of osteopathic physicians;	39224
(3) Maintaining a medical staff executive committee that has	39225
osteopathic physicians as a majority of its members.	39226
(Q) "Ambulatory surgical facility" has the same meaning as in	39227
section 3702.30 of the Revised Code.	39228
(R) Except as otherwise provided in division (T) of this	39229
section, and until the termination date specified in section	39230
3702.511 of the Revised Code, "reviewable activity" means any of	39231
the following:	39232
(1) The addition by any person of any of the following health	39233
services, regardless of the amount of operating costs or capital	39234

expenditures:	39235
(a) A heart, heart-lung, lung, liver, kidney, bowel, pancreas, or bone marrow transplantation service, a stem cell harvesting and reinfusion service, or a service for transplantation of any other organ unless transplantation of the organ is designated by public health council rule not to be a reviewable activity;	39236 39237 39238 39239 39240 39241
(b) A cardiac catheterization service;	39242
(c) An open-heart surgery service;	39243
(d) Any new, experimental medical technology that is designated by rule of the public health council.	39244 39245
(2) The acceptance of high-risk patients, as defined in rules adopted under section 3702.57 of the Revised Code, by any cardiac catheterization service that was initiated without a certificate of need pursuant to division (R)(3)(b) of the version of this section in effect immediately prior to April 20, 1995;	39246 39247 39248 39249 39250
(3)(a) The establishment, development, or construction of a new health care facility other than a new long-term care facility or a new hospital;	39251 39252 39253
(b) The establishment, development, or construction of a new hospital or the relocation of an existing hospital;	39254 39255
(c) The relocation of hospital beds, other than long-term care, perinatal, or pediatric intensive care beds, into or out of a rural area.	39256 39257 39258
(4)(a) The replacement of an existing hospital;	39259
(b) The replacement of an existing hospital obstetric or newborn care unit or freestanding birthing center.	39260 39261
(5)(a) The renovation of a hospital that involves a capital expenditure, obligated on or after the effective date of this	39262 39263

amendment <u>June 30, 1995</u> , of five million dollars or more, not	39264
including expenditures for equipment, staffing, or operational	39265
costs. For purposes of division (R)(5)(a) of this section, a	39266
capital expenditure is obligated:	39267
(i) When a contract enforceable under Ohio law is entered	39268
into for the construction, acquisition, lease, or financing of a	39269
capital asset;	39270
(ii) When the governing body of a hospital takes formal	39271
action to commit its own funds for a construction project	39272
undertaken by the hospital as its own contractor;	39273
(iii) In the case of donated property, on the date the gift	39274
is completed under applicable Ohio law.	39275
(b) The renovation of a hospital obstetric or newborn care	39276
unit or freestanding birthing center that involves a capital	39277
expenditure of five million dollars or more, not including	39278
expenditures for equipment, staffing, or operational costs.	39279
(6) Any change in the health care services, bed capacity, or	39280
site, or any other failure to conduct the reviewable activity in	39281
substantial accordance with the approved application for which a	39282
certificate of need was granted, if the change is made prior to	39283
the date the activity for which the certificate was issued ceases	39284
to be a reviewable activity;	39285
(7) Any of the following changes in perinatal bed capacity or	39286
pediatric intensive care bed capacity:	39287
(a) An increase in bed capacity;	39288
(b) A change in service or service-level designation of	39289
newborn care beds or obstetric beds in a hospital or freestanding	39290
birthing center, other than a change of service that is provided	39291
within the service-level designation of newborn care or obstetric	39292
beds as registered by the department of health;	39293

(c) A relocation of perinatal or pediatric intensive care beds from one physical facility or site to another, excluding the relocation of beds within a hospital or freestanding birthing center or the relocation of beds among buildings of a hospital or freestanding birthing center at the same site.

(8) The expenditure of more than one hundred ten per cent of the maximum expenditure specified in a certificate of need;

(9) Any transfer of a certificate of need issued prior to April 20, 1995, from the person to whom it was issued to another person before the project that constitutes a reviewable activity is completed, any agreement that contemplates the transfer of a certificate of need issued prior to that date upon completion of the project, and any transfer of the controlling interest in an entity that holds a certificate of need issued prior to that date. However, the transfer of a certificate of need issued prior to that date or agreement to transfer such a certificate of need from the person to whom the certificate of need was issued to an affiliated or related person does not constitute a reviewable transfer of a certificate of need for the purposes of this division, unless the transfer results in a change in the person that holds the ultimate controlling interest in the certificate of need.

(10)(a) The acquisition by any person of any of the following medical equipment, regardless of the amount of operating costs or capital expenditure:

(i) A cobalt radiation therapy unit;

(ii) A linear accelerator;

(iii) A gamma knife unit.

(b) The acquisition by any person of medical equipment with a cost of two million dollars or more. The cost of acquiring medical

equipment includes the sum of the following:	39324
(i) The greater of its fair market value or the cost of its lease or purchase;	39325 39326
(ii) The cost of installation and any other activities essential to the acquisition of the equipment and its placement into service.	39327 39328 39329
(11) The addition of another cardiac catheterization laboratory to an existing cardiac catheterization service.	39330 39331
(S) Except as provided in division (T) of this section, "reviewable activity" also means any of the following activities, none of which are subject to a termination date:	39332 39333 39334
(1) The establishment, development, or construction of a new long-term care facility;	39335 39336
(2) The replacement of an existing long-term care facility;	39337
(3) The renovation of a long-term care facility that involves a capital expenditure of two million dollars or more, not including expenditures for equipment, staffing, or operational costs;	39338 39339 39340 39341
(4) Any of the following changes in long-term care bed capacity:	39342 39343
(a) An increase in bed capacity;	39344
(b) A relocation of beds from one physical facility or site to another, excluding the relocation of beds within a long-term care facility or among buildings of a long-term care facility at the same site;	39345 39346 39347 39348
(c) A recategorization of hospital beds registered under section 3701.07 of the Revised Code from another registration category to skilled nursing beds or long-term care beds.	39349 39350 39351
(5) Any change in the health services, bed capacity, or site,	39352

or any other failure to conduct the reviewable activity in 39353
substantial accordance with the approved application for which a 39354
certificate of need concerning long-term care beds was granted, if 39355
the change is made within five years after the implementation of 39356
the reviewable activity for which the certificate was granted; 39357

(6) The expenditure of more than one hundred ten per cent of 39358
the maximum expenditure specified in a certificate of need 39359
concerning long-term care beds; 39360

(7) Any transfer of a certificate of need that concerns 39361
long-term care beds and was issued prior to April 20, 1995, from 39362
the person to whom it was issued to another person before the 39363
project that constitutes a reviewable activity is completed, any 39364
agreement that contemplates the transfer of such a certificate of 39365
need upon completion of the project, and any transfer of the 39366
controlling interest in an entity that holds such a certificate of 39367
need. However, the transfer of a certificate of need that concerns 39368
long-term care beds and was issued prior to April 20, 1995, or 39369
agreement to transfer such a certificate of need from the person 39370
to whom the certificate was issued to an affiliated or related 39371
person does not constitute a reviewable transfer of a certificate 39372
of need for purposes of this division, unless the transfer results 39373
in a change in the person that holds the ultimate controlling 39374
interest in the certificate of need. 39375

(T) "Reviewable activity" does not include any of the 39376
following activities: 39377

(1) Acquisition of computer hardware or software; 39378

(2) Acquisition of a telephone system; 39379

(3) Construction or acquisition of parking facilities; 39380

(4) Correction of cited deficiencies that are in violation of 39381
federal, state, or local fire, building, or safety laws and rules 39382

and that constitute an imminent threat to public health or safety;	39383
(5) Acquisition of an existing health care facility that does not involve a change in the number of the beds, by service, or in the number or type of health services;	39384 39385 39386
(6) Correction of cited deficiencies identified by accreditation surveys of the joint commission on accreditation of healthcare organizations or of the American osteopathic association;	39387 39388 39389 39390
(7) Acquisition of medical equipment to replace the same or similar equipment for which a certificate of need has been issued if the replaced equipment is removed from service;	39391 39392 39393
(8) Mergers, consolidations, or other corporate reorganizations of health care facilities that do not involve a change in the number of beds, by service, or in the number or type of health services;	39394 39395 39396 39397
(9) Construction, repair, or renovation of bathroom facilities;	39398 39399
(10) Construction of laundry facilities, waste disposal facilities, dietary department projects, heating and air conditioning projects, administrative offices, and portions of medical office buildings used exclusively for physician services;	39400 39401 39402 39403
(11) Acquisition of medical equipment to conduct research required by the United States food and drug administration or clinical trials sponsored by the national institute of health. Use of medical equipment that was acquired without a certificate of need under division (T)(11) of this section and for which premarket approval has been granted by the United States food and drug administration to provide services for which patients or reimbursement entities will be charged shall be a reviewable activity.	39404 39405 39406 39407 39408 39409 39410 39411 39412

(12) Removal of asbestos from a health care facility.	39413
Only that portion of a project that meets the requirements of	39414
division (T) of this section is not a reviewable activity.	39415
(U) "Small rural hospital" means a hospital that is located	39416
within a rural area, has fewer than one hundred beds, and to which	39417
fewer than four thousand persons were admitted during the most	39418
recent calendar year.	39419
(V) "Children's hospital" means any of the following:	39420
(1) A hospital registered under section 3701.07 of the	39421
Revised Code that provides general pediatric medical and surgical	39422
care, and in which at least seventy-five per cent of annual	39423
inpatient discharges for the preceding two calendar years were	39424
individuals less than eighteen years of age;	39425
(2) A distinct portion of a hospital registered under section	39426
3701.07 of the Revised Code that provides general pediatric	39427
medical and surgical care, has a total of at least one hundred	39428
fifty registered pediatric special care and pediatric acute care	39429
beds, and in which at least seventy-five per cent of annual	39430
inpatient discharges for the preceding two calendar years were	39431
individuals less than eighteen years of age;	39432
(3) A distinct portion of a hospital, if the hospital is	39433
registered under section 3701.07 of the Revised Code as a	39434
children's hospital and the children's hospital meets all the	39435
requirements of division (V)(1) of this section.	39436
(W) "Long-term care facility" means any of the following:	39437
(1) A nursing home licensed under section 3721.02 of the	39438
Revised Code or by a political subdivision certified under section	39439
3721.09 of the Revised Code;	39440
(2) The portion of any facility, including a county home or	39441
county nursing home, that is certified as a skilled nursing	39442

facility or a nursing facility under Title XVIII or XIX of the "Social Security Act"; 39443
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(3) The portion of any hospital that contains beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds. 39445
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(X) "Long-term care bed" means a bed in a long-term care facility. 39448
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(Y) "Perinatal bed" means a bed in a hospital that is registered under section 3701.07 of the Revised Code as a newborn care bed or obstetric bed, or a bed in a freestanding birthing center. 39450
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(Z) "Freestanding birthing center" means any facility in which deliveries routinely occur, regardless of whether the facility is located on the campus of another health care facility, and which is not licensed under Chapter 3711. of the Revised Code as a level one, two, or three maternity unit or a limited maternity unit. 39454
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(AA)(1) "Reviewability ruling" means a ruling issued by the director of health under division (A) of section 3702.52 of the Revised Code as to whether a particular proposed project is or is not a reviewable activity. 39460
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(2) "Nonreviewability ruling" means a ruling issued under that division that a particular proposed project is not a reviewable activity. 39464
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(BB)(1) "Metropolitan statistical area" means an area of this state designated a metropolitan statistical area or primary metropolitan statistical area in United States office of management and budget bulletin No. 93-17, June 30, 1993, and its attachments. 39467
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(2) "Rural area" means any area of this state not located 39472

within a metropolitan statistical area. 39473

Sec. 3702.68. (A) Notwithstanding sections 3702.51 to 3702.62 39474
of the Revised Code, this section applies to the review of 39475
certificate of need applications during the period beginning July 39476
1, 1993, and ending June 30, ~~2005~~ 2007. 39477

As used in this section, "existing health care facility" has 39478
the same meaning as in section 3702.51 of the Revised Code. 39479

(B)(1) Except as provided in division (B)(2) of this section, 39480
the director of health shall neither grant nor deny any 39481
application for a certificate of need submitted prior to July 1, 39482
1993, if the application was for any of the following and the 39483
director had not issued a written decision concerning the 39484
application prior to that date: 39485

(a) Approval of beds in a new health care facility or an 39486
increase of beds in an existing health care facility, if the beds 39487
are proposed to be licensed as nursing home beds under Chapter 39488
3721. of the Revised Code; 39489

(b) Approval of beds in a new county home or new county 39490
nursing home as defined in section 5155.31 of the Revised Code, or 39491
an increase of beds in an existing county home or existing county 39492
nursing home, if the beds are proposed to be certified as skilled 39493
nursing facility beds under Title XVIII or nursing facility beds 39494
under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 39495
42 U.S.C.A. 301, as amended; 39496

(c) Recategorization of hospital beds as described in section 39497
3702.522 of the Revised Code, an increase of hospital beds 39498
registered pursuant to section 3701.07 of the Revised Code as 39499
long-term care beds or skilled nursing facility beds, or a 39500
recategorization of hospital beds that would result in an increase 39501
of beds registered pursuant to that section as long-term care beds 39502

or skilled nursing facility beds.

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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 the Revised Code no sooner than July 1, ~~2005~~ 2007.

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(2) The director shall continue to review and shall issue a decision regarding any application submitted prior to July 1, 1993, to increase beds for either of the purposes described in division (B)(1)(a) or (b) of this section if the proposed increase in beds is attributable solely to a replacement or relocation of existing beds within the same county. The director shall authorize under such an application no additional beds beyond those being replaced or relocated.

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(C)(1) Except as provided in division (C)(2) of this section, the director, during the period beginning July 1, 1993, and ending June 30, ~~2005~~ 2007, shall not accept for review under section 3702.52 of the Revised Code any application for a certificate of need for any of the purposes described in divisions (B)(1)(a) to (c) of this section.

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(2)(a) The director shall accept for review any application for either of the purposes described in division (B)(1)(a) or (b) of this section if the proposed increase in beds is attributable solely to a replacement or relocation of existing beds from an existing health care facility within the same county. The director shall authorize under such an application no additional beds beyond those being replaced or relocated. ~~The~~

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The director shall not approve an application for a certificate of need for addition of long-term care beds to an

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existing health care facility by relocation of beds or for the 39534
development of a new health care facility by relocation of beds 39535
unless all of the following conditions are met: 39536

(i) The existing health care facility to which the beds are 39537
being relocated has no life safety code waivers, no state fire 39538
code violations, and no state building code violations; 39539

(ii) During the sixty month period preceding the filing of 39540
the application, no notice of proposed revocation of the 39541
facility's license was issued under section 3721.03 of the Revised 39542
Code to the operator of the existing facility to which the beds 39543
are being relocated or to any health care facility owned or 39544
operated by the applicant or any principal participant in the same 39545
corporation or other business; 39546

(iii) Neither the existing health care facility to which the 39547
beds are being relocated nor any health care facility owned or 39548
operated by the applicant or any principal participant in the same 39549
corporation or other business has had a long-standing pattern of 39550
violations of this chapter or deficiencies that caused one or more 39551
residents physical, emotional, mental, or psychosocial harm. 39552

(b) The director also shall accept for review any application 39553
that seeks certificate of need approval for existing the 39554
conversion of infirmary beds located in an to long-term care beds 39555
if the infirmary that is meets all of the following conditions: 39556

(i) Is operated exclusively by a religious order, provides; 39557

(ii) Provides care exclusively to members of religious orders 39558
who take vows of celibacy and live by virtue of their vows within 39559
the orders as if related, and was; 39560

(iii) Was providing care exclusively to members of such a 39561
religious order on January 1, 1994. 39562

(D) The director shall issue a decision regarding any case 39563

remanded by a court as the result of a decision issued by the 39564
director prior to July 1, 1993, to grant, deny, or withdraw a 39565
certificate of need for any of the purposes described in divisions 39566
(B)(1)(a) to (c) of this section. 39567

(E) The director shall not project the need for beds listed 39568
in division (B)(1) of this section for the period beginning July 39569
1, 1993, and ending June 30, ~~2005~~ 2007. 39570

This section is an interim section effective until July 1, 39571
~~2005~~ 2007. 39572

Sec. 3702.71. As used in sections 3702.71 to 3702.81 of the 39573
Revised Code: 39574

(A) "Primary care physician" means an individual who is 39575
authorized under Chapter 4731. of the Revised Code to practice 39576
medicine and surgery or osteopathic medicine and surgery and is 39577
board certified or board eligible in a primary care specialty. 39578

(B) "Primary care service" means professional comprehensive 39579
personal health services, which may include health education and 39580
disease prevention, treatment of uncomplicated health problems, 39581
diagnosis of chronic health problems, ~~and~~ overall management of 39582
health care services for an individual or a family, and the 39583
services of a psychiatrist. "Primary care service" also includes 39584
providing the initial contact for health care services and making 39585
referrals for secondary and tertiary care and for continuity of 39586
health care services. 39587

(C) "Primary care specialty" means general internal medicine, 39588
pediatrics, obstetrics and gynecology, psychiatry, or family 39589
practice. 39590

Sec. 3702.74. (A) A primary care physician who has signed a 39591
letter of intent under section 3702.73 of the Revised Code, the 39592

director of health, and the Ohio board of regents may enter into a 39593
contract for the physician's participation in the physician loan 39594
repayment program. A lending institution may also be a party to 39595
the contract. 39596

(B) The contract shall include all of the following 39597
obligations: 39598

(1) The primary care physician agrees to provide primary care 39599
services in the health resource shortage area identified in the 39600
letter of intent for at least two years or one year per twenty 39601
thousand dollars of repayment agreed to under division (B)(3) of 39602
this section, whichever is greater; 39603

(2) When providing primary care services in the health 39604
resource shortage area, the primary care physician agrees to do 39605
all of the following: 39606

(a) Provide primary care services for a minimum of forty 39607
hours per week; 39608

(b) Provide primary care services without regard to a 39609
patient's ability to pay; 39610

(c) Meet the conditions prescribed by the "Social Security 39611
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the 39612
department of job and family services for participation in the 39613
medical assistance program established under Chapter 5111. of the 39614
Revised Code and enter into a contract with the department to 39615
provide primary care services to recipients of the medical 39616
assistance program; 39617

~~(d) Meet the conditions established by the department of job 39618
and family services for participation in the disability medical 39619
assistance program established under Chapter 5115. of the Revised 39620
Code and enter into a contract with the department to provide 39621
primary care services to recipients of disability medical 39622
assistance. 39623~~

(3) The Ohio board of regents agrees, as provided in section 39624
3702.75 of the Revised Code, to repay, so long as the primary care 39625
physician performs the service obligation agreed to under division 39626
(B)(1) of this section, all or part of the principal and interest 39627
of a government or other educational loan taken by the primary 39628
care physician for expenses described in section 3702.75 of the 39629
Revised Code; 39630

(4) The primary care physician agrees to pay the board the 39631
following as damages if the physician fails to complete the 39632
service obligation agreed to under division (B)(1) of this 39633
section: 39634

(a) If the failure occurs during the first two years of the 39635
service obligation, three times the total amount the board has 39636
agreed to repay under division (B)(3) of this section; 39637

(b) If the failure occurs after the first two years of the 39638
service obligation, three times the amount the board is still 39639
obligated to repay under division (B)(3) of this section. 39640

(C) The contract may include any other terms agreed upon by 39641
the parties, including an assignment to the Ohio board of regents 39642
of the physician's duty to pay the principal and interest of a 39643
government or other educational loan taken by the physician for 39644
expenses described in section 3702.75 of the Revised Code. If the 39645
board assumes the physician's duty to pay a loan, the contract 39646
shall set forth the total amount of principal and interest to be 39647
paid, an amortization schedule, and the amount of each payment to 39648
be made under the schedule. 39649

Sec. 3702.83. The department of health shall administer a 39650
program, to be known as the J-1 visa waiver program, for 39651
recruiting physicians who received graduate medical education or 39652
training in the United States but are not citizens of the United 39653

States to serve in areas of the state designated by the United 39654
States secretary of health and human services as health 39655
professional shortage areas under the "Public Health Service Act," 39656
88 Stat. 682 (1944), 42 U.S.C. 254(e), as amended. Under the 39657
program, the department of health shall accept and review 39658
applications for placement of persons seeking to remain in the 39659
United States pursuant to the "Immigration and Nationality Act," 39660
66 Stat. 163 (1952), 8 U.S.C. 1182(J)(1) and 1184(l), as amended, 39661
by obtaining a waiver of the federal requirement that they return 39662
to their home countries for a minimum of two years after 39663
completing the graduate medical education or training for which 39664
they were admitted to the United States. The department shall 39665
administer the program in accordance with the "Immigration and 39666
Nationality Act" and the regulations adopted under it. 39667

For each application accepted for review under this section, 39668
the department shall charge a fee of three thousand five hundred 39669
seventy-one dollars. The fee is nonrefundable. All fees collected 39670
shall be deposited into the state treasury to the credit of 39671
general operations fund created in section 3701.83 of the Revised 39672
Code. 39673

Sec. 3703.01. (A) The division of industrial compliance in 39674
the department of commerce shall: 39675

(1) Inspect all nonresidential buildings within the meaning 39676
of section 3781.06 of the Revised Code; 39677

(2) Condemn all unsanitary or defective plumbing that is 39678
found in connection with those places; 39679

(3) Order changes in plumbing necessary to insure the safety 39680
of the public health. 39681

(B)(1) The division of industrial compliance and boards of 39682
health of city and general health districts shall not inspect 39683

plumbing or collect fees for inspecting plumbing in particular 39684
types of buildings in any municipal corporation that has been 39685
certified by the board of building standards under section 3781.10 39686
of the Revised Code to exercise enforcement authority for plumbing 39687
in such types of buildings. 39688

(2) The division shall not inspect plumbing or collect fees 39689
for inspecting plumbing in particular types of buildings in any 39690
health district that has employed one or more approved plumbing 39691
inspectors to enforce Chapters 3781. and 3791. of the Revised Code 39692
and the rules adopted pursuant to those chapters relating to 39693
plumbing in such types of buildings. 39694

(3) A municipal corporation does not have jurisdiction to 39695
inspect plumbing or collect fees for the inspection of plumbing in 39696
types of buildings for which it has not been certified by the 39697
board of building standards under section 3781.10 of the Revised 39698
Code to exercise enforcement authority. 39699

(4) A board of health of a health district does not have 39700
jurisdiction to inspect plumbing or collect fees for the 39701
inspection of plumbing in types of buildings for which it does not 39702
have an approved plumbing inspector. 39703

(C) The superintendent of industrial compliance shall adopt 39704
rules prescribing minimum qualifications based on education, 39705
training, experience, or demonstrated ability, which the ~~director~~ 39706
superintendent shall use in ~~approving certifying or recertifying~~ 39707
plumbing inspectors to do plumbing inspections for health 39708
districts and for continuing education of plumbing inspectors. 39709
Such minimum qualifications shall be related to the types of 39710
buildings for which a person seeks approval. 39711

(D) The superintendent may enter into reciprocal 39712
registration, licensure, or certification agreements with other 39713
states and other agencies of this state relative to plumbing 39714

<u>inspectors if both of the following apply:</u>	39715
<u>(1) The requirements for registration, licensure, or certification of plumbing inspectors under the laws of the other state or laws administered by the other agency are substantially equal to the requirements the superintendent adopts under division (C) of this section for certifying plumbing inspectors.</u>	39716 39717 39718 39719 39720
<u>(2) The other state or agency extends similar reciprocity to persons certified under this chapter.</u>	39721 39722
<u>(E) The superintendent may select and contract with one or more persons to do all of the following regarding examinations for certification of plumbing inspectors:</u>	39723 39724 39725
<u>(1) Prepare, administer, score, and maintain the confidentiality of the examination;</u>	39726 39727
<u>(2) Maintain responsibility for all expenses required to comply with division (E)(1) of this section;</u>	39728 39729
<u>(3) Charge each applicant a fee for administering the examination in an amount the superintendent authorizes;</u>	39730 39731
<u>(4) Design the examination for certification of plumbing inspectors to determine an applicant's competence to inspect plumbing.</u>	39732 39733 39734
<u>(F) Standards and methods prescribed in local plumbing regulations shall not be less than those prescribed in Chapters 3781. and 3791. of the Revised Code and the rules adopted pursuant to those chapters.</u>	39735 39736 39737 39738
(E) <u>(G) Notwithstanding any other provision of this section, the division shall make a plumbing inspection of any building or other place that there is reason to believe is in a condition to be a menace to the public health.</u>	39739 39740 39741 39742
Sec. 3703.03. In the administration of sections 3703.01 to	39743

3703.09 of the Revised Code, the division of industrial compliance 39744
~~in the department of commerce~~ shall enforce rules governing 39745
plumbing adopted by the board of building standards under 39746
authority of sections 3781.10 and 3781.11 of the Revised Code, and 39747
register those persons engaged in or at the plumbing business. 39748

Plans and specifications for all plumbing to be installed in 39749
or for buildings coming within such sections shall be submitted to 39750
and approved by the division before the contract for plumbing is 39751
let. 39752

Sec. 3703.04. The ~~director~~ superintendent of ~~commerce~~ 39753
industrial compliance shall appoint such number of plumbing 39754
inspectors as is required. The inspectors shall be practical 39755
plumbers with at least seven years' experience, and skilled and 39756
well-trained in matters pertaining to sanitary regulations 39757
concerning plumbing work. 39758

~~No plumbing inspector employed by the department and assigned 39759
to the enforcement of this chapter shall be engaged or interested 39760
in the plumbing business or the sale of any plumbing supplies, nor 39761
shall the inspector act as agent, directly or indirectly, for any 39762
person so engaged.~~ 39763

Sec. 3703.05. Plumbing inspectors employed by the ~~department~~ 39764
division of ~~commerce~~ industrial compliance assigned to the 39765
enforcement of sections 3703.01 to 3703.09 of the Revised Code, 39766
may, between sunrise and sunset, enter any building where there is 39767
good and sufficient reason to believe that the sanitary condition 39768
of the premises endangers the public health, for the purpose of 39769
making an inspection to ascertain the condition of the premises. 39770

Sec. 3703.06. When any building is found to be in a sanitary 39771
condition or when changes which are ordered, under authority of 39772
this chapter, in the plumbing, drainage, or ventilation have been 39773

made, and after a thorough inspection and approval by the ~~division~~ 39774
~~superintendent~~ of industrial compliance ~~in the department of~~ 39775
~~commerce~~, the ~~division~~ superintendent shall issue a certificate 39776
~~signed by the superintendent of the division of industrial~~ 39777
~~compliance~~, which ~~must~~ shall be posted in a conspicuous place for 39778
the benefit of the public at large. Upon notification by the 39779
superintendent, the certificate shall be revoked for any violation 39780
of those sections. 39781

Sec. 3703.07. No plumbing work shall be done in any building 39782
or place coming within the jurisdiction of the ~~department~~ division 39783
of ~~commerce~~ industrial compliance, except in cases of repairs or 39784
leaks in existing plumbing, until a permit has been issued by the 39785
~~department~~ division. 39786

Before granting such permit, an application shall be made by 39787
the owner of the property or by the person, firm, or corporation 39788
which is to do the work. The application shall be made on a form 39789
prepared by the ~~department~~ division for the purpose, and each 39790
application shall be accompanied by a fee of twenty-seven dollars, 39791
and an additional fee of seven dollars for each trap, vented 39792
fixture, appliance, or device. Each application also shall be 39793
accompanied by a plan approval fee of eighteen dollars for work 39794
containing one through twenty fixtures; thirty-six dollars for 39795
work containing twenty-one through forty fixtures; and fifty-four 39796
dollars for work containing forty-one or more fixtures. 39797

Whenever a reinspection is made necessary by the failure of 39798
the applicant or plumbing contractor to have the work ready for 39799
inspection when so reported, or by reason of faulty or improper 39800
installation, the person shall pay a fee of forty-five dollars for 39801
each reinspection. 39802

All fees collected pursuant to this section shall be paid 39803
into the state treasury to the credit of the industrial compliance 39804

operating fund created in section 121.084 of the Revised Code. 39805

The ~~director~~ superintendent of ~~commerce~~ industrial 39806
compliance, by rule adopted in accordance with Chapter 119. of the 39807
Revised Code, may increase the fees required by this section and 39808
may establish fees to pay the costs of the division to fulfill its 39809
duties established by this chapter, including, but not limited to, 39810
fees for administering a program for continuing education for, and 39811
certifying and recertifying plumbing inspectors. The fees shall 39812
bear some reasonable relationship to the cost of administering and 39813
enforcing the provisions of this chapter. 39814

Sec. 3703.08. Any owner, agent, or manager, of a building in 39815
which an inspection is made by the ~~department~~ division of ~~commerce~~ 39816
industrial compliance, a board of health of a health district, or 39817
a certified department of building inspection of a municipal 39818
corporation, shall have the entire system of drainage and 39819
ventilation repaired, as the ~~department of commerce~~ division, 39820
board of health, or department of building inspection directs by 39821
its order. After due notice to repair such work is given, the 39822
owner, agent, or manager shall notify the public authority that 39823
issued the order when the work is ready for its inspection. No 39824
person shall fail to have the work ready for inspection at the 39825
time specified in the notice. 39826

Sec. 3703.10. All prosecutions and proceedings by the 39827
~~department~~ division of ~~commerce~~ industrial compliance for the 39828
violation of sections 3703.01 to 3703.09 of the Revised Code, or 39829
for the violation of any of the orders or rules of the ~~department~~ 39830
division under those sections, shall be instituted by the ~~director~~ 39831
superintendent of ~~commerce~~ industrial compliance. All fines or 39832
judgments collected by the ~~department~~ division shall be paid into 39833
the state treasury to the credit of the industrial compliance 39834

operating fund created by section 121.084 of the Revised Code. 39835

The ~~director~~ superintendent, the board of health of a general 39836
or city health district, or any person charged with enforcing the 39837
rules of the ~~department~~ division adopted under sections 3703.01 to 39838
3703.09 of the Revised Code may petition the court of common pleas 39839
for injunctive or other appropriate relief requiring any person 39840
violating a rule adopted or order issued by the ~~director~~ 39841
superintendent under those sections to comply with the rule or 39842
order. The court of common pleas of the county in which the 39843
offense is alleged to be occurring may grant injunctive or other 39844
appropriate relief. 39845

The superintendent may do all of the following: 39846

(A) Deny an applicant certification as a plumbing inspector; 39847

(B) Suspend or revoke the certification of a plumbing 39848
inspector; 39849

(C) Examine any certified plumbing inspector under oath; 39850

(D) Examine the records and books of any certified plumbing 39851
inspector if the superintendent finds the material to be examined 39852
relevant to a determination described in division (A), (B), or (C) 39853
of this section. 39854

Sec. 3703.99. Whoever violates sections 3703.01 to 3703.09 of 39855
the Revised Code, or any rule the ~~department~~ division of ~~commerce~~ 39856
industrial compliance is required to enforce under such sections, 39857
shall be fined not less than ten nor more than one hundred dollars 39858
or imprisoned for not less than ten nor more than ninety days, or 39859
both. No person shall be imprisoned under this section for the 39860
first offense, and the prosecution always shall be as for a first 39861
offense unless the affidavit upon which the prosecution is 39862
instituted contains the allegation that the offense is a second or 39863
repeated offense. 39864

Sec. 3704.035. There is hereby created in the state treasury 39865
the clean air fund. Except as otherwise provided in division (K) 39866
of section 3745.11 of the Revised Code, all moneys collected under 39867
divisions (C), (D), (F), (G), (H), (I), and (J) of that section 39868
and under section 3745.111 of the Revised Code, and any gifts, 39869
grants, or contributions received by the director of environmental 39870
protection for the purposes of the fund, shall be credited to the 39871
fund. The director shall expend moneys from the fund exclusively 39872
to pay the cost of administering and enforcing the laws of this 39873
state pertaining to the prevention, control, and abatement of air 39874
pollution and rules adopted and terms and conditions of permits, 39875
variances, and orders issued under those laws, except that the 39876
director shall not expend moneys credited to the fund for the 39877
administration and enforcement of motor vehicle inspection and 39878
maintenance programs and requirements under sections 3704.14, 39879
3704.141, 3704.16, 3704.161, and 3704.162, ~~and 3704.17~~ of the 39880
Revised Code. 39881

Specifically, the director shall expend all moneys credited 39882
to the fund from fees assessed under section 3745.11 of the 39883
Revised Code pursuant to the Title V permit program established 39884
under section 3704.036 of the Revised Code, and from any gifts, 39885
grants, or contributions received for the purposes of that 39886
program, solely to administer and enforce that program pursuant to 39887
the federal Clean Air Act, this chapter, and rules adopted under 39888
it, except as costs relating to enforcement are limited by the 39889
federal Clean Air Act. The director shall establish separate and 39890
distinct accounting for all such moneys. 39891

The director shall report biennially to the general assembly 39892
the amounts of fees and other moneys credited to the fund under 39893
this section and the amounts expended from it for each of the 39894
various air pollution control programs. 39895

Sec. 3704.14. (A) The director of environmental protection 39896
shall continue to implement an enhanced motor vehicle inspection 39897
and maintenance program for a period of two years beginning on 39898
January 1, 2006, and ending on December 31, 2007, in counties in 39899
which a motor vehicle inspection and maintenance program is 39900
federally mandated. The program shall be substantially similar to 39901
the enhanced program implemented in those counties under a 39902
contract that is scheduled to expire on December 31, 2005. The 39903
program, at a minimum, shall do all of the following: 39904

(1) Comply with the federal Clean Air Act; 39905

(2) Provide for the extension of a contract for a period of 39906
two years, beginning on January 1, 2006, and ending on December 39907
31, 2007, with the contractor who conducted the enhanced motor 39908
vehicle inspection and maintenance program in those federally 39909
mandated counties pursuant to a contract entered into under former 39910
section 3704.14 of the Revised Code as that section existed prior 39911
to its repeal and reenactment by Am. Sub. H.B. 66 of the 126th 39912
General Assembly; 39913

(3) Provide for the issuance of inspection certificates; 39914

(4) Provide for a new car exemption for motor vehicles four 39915
years old or newer and provide that a new motor vehicle is exempt 39916
for four years regardless of whether legal title to the motor 39917
vehicle is transferred during that period. 39918

(B) The director shall not implement a motor vehicle 39919
inspection and maintenance program in any county other than a 39920
county in which a motor vehicle inspection and maintenance program 39921
is federally mandated. 39922

(C) The director shall adopt rules in accordance with Chapter 39923
119. of the Revised Code that the director determines are 39924
necessary to implement this section. The director may continue to 39925

implement and enforce rules pertaining to the enhanced motor 39926
vehicle inspection and maintenance program previously implemented 39927
under former section 3704.14 of the Revised Code as that section 39928
existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of 39929
the 126th general assembly, provided that the rules do not 39930
conflict with this section. 39931

(D) There is hereby created in the state treasury the motor 39932
vehicle inspection and maintenance fund, which shall consist of 39933
money received by the director from any fees for inspections that 39934
are established in rules adopted under this section. The director 39935
shall use money in the fund solely for the implementation, 39936
supervision, administration, operation, and enforcement of the 39937
enhanced motor vehicle inspection and maintenance program 39938
established under this section. 39939

(E) The enhanced motor vehicle inspection and maintenance 39940
program established under this section expires on December 31, 39941
2007, and shall not be continued beyond that date unless otherwise 39942
federally mandated. 39943

Sec. 3704.143. (A) As used in this section, "contract" means 39944
a contract entered into by the state under former section 3704.14 39945
of the Revised Code, as that section existed prior to its repeal 39946
and reenactment by Am. Sub. H.B. 66 of the 126th General Assembly, 39947
with a private contractor for the purpose of conducting emissions 39948
inspections under a motor vehicle inspection and maintenance 39949
program. 39950

(B) ~~Notwithstanding division (D)(5) of~~ Except as authorized 39951
in section 3704.14 of the Revised Code, ~~the director of~~ 39952
~~administrative services or~~ as that section was reenacted by Am. 39953
Sub. H.B. 66 of the 126th General Assembly, the director of 39954
environmental protection, ~~as applicable,~~ shall not renew any 39955
contract that is in existence on September 5, 2001. Further, 39956

~~except as authorized in that section,~~ the director ~~of~~ 39957
~~administrative services or the director of environmental~~ 39958
~~protection, as applicable,~~ shall not enter into a new contract 39959
upon the expiration or termination of any contract that is in 39960
existence on September 5, 2001, or enter into any new contract for 39961
the implementation of a motor vehicle inspection and maintenance 39962
program in a county in which such a program is not operating on 39963
that date. 39964

(C) ~~Notwithstanding~~ Except as authorized in section 3704.14 39965
~~of the Revised Code or any other section of the Revised Code that~~ 39966
~~requires emissions inspections to be conducted or proof of such~~ 39967
~~inspections to be provided,~~ as that section was reenacted by Am. 39968
Sub. H.B. 66 of the 126th General Assembly, upon the expiration or 39969
termination of all contracts that are in existence on September 5, 39970
2001, the director of environmental protection shall terminate all 39971
motor vehicle inspection and maintenance programs in this state 39972
and shall not implement a new motor vehicle inspection and 39973
maintenance program unless ~~this section is repealed and~~ such a 39974
program is authorized by the general assembly. 39975

(D) ~~Notwithstanding~~ ~~section 3704.14 of the Revised Code or~~ 39976
~~any other section of the Revised Code that requires emissions~~ 39977
~~inspections to be conducted or proof of such inspections to be~~ 39978
~~provided, if~~ If the general assembly authorizes any program for 39979
the inspection of motor vehicle emissions under division (C) of 39980
this section after all contracts for a motor vehicle inspection 39981
and maintenance program that are in existence on September 5, 39982
2001, terminate or expire, a motor vehicle, the legal title to 39983
which has never been transferred by a manufacturer, distributor, 39984
or dealer to an ultimate purchaser as defined in section 4517.01 39985
of the Revised Code, shall be exempt from any emissions 39986
inspections that are required under such a program for a period of 39987
~~five~~ not less than four years commencing on the date when the 39988

first certificate of title to the vehicle was issued on behalf of 39989
the ultimate purchaser under Chapter 4503. of the Revised Code. A 39990
motor vehicle that is exempt from any emissions inspections ~~for a~~ 39991
~~period of five years~~ under this division shall remain exempt 39992
during that ~~five-year~~ period regardless of whether legal title to 39993
the motor vehicle is transferred during that period. 39994

Sec. 3704.144. Gifts, grants, and contributions for the 39995
purpose of adding pollution control equipment to diesel-powered 39996
school buses, including contributions that are made pursuant to 39997
the settlement of an administrative action or civil action that is 39998
brought at the request of the director of environmental protection 39999
pursuant to Chapter 3704., 3714., 3734., 6109., or 6111. of the 40000
Revised Code, shall be credited to the clean diesel school bus 40001
fund, which is hereby created in the state treasury. The director 40002
shall use money credited to the fund to make grants to school 40003
districts in the state for the purpose of adding pollution control 40004
equipment to diesel-powered school buses and to pay the 40005
environmental protection agency's costs incurred in administering 40006
this section. In addition, the director may use money credited to 40007
the fund to make grants to school districts for the purpose of 40008
maintaining pollution control equipment that is installed on 40009
diesel-powered school buses and to pay the additional cost 40010
incurred by a school district for using ultra-low sulfur diesel 40011
fuel instead of diesel fuel for the operation of diesel-powered 40012
school buses. 40013

In making grants under this section, the director shall give 40014
priority to school districts that are located in a county that is 40015
designated as nonattainment by the United States environmental 40016
protection agency for the fine particulate national ambient air 40017
quality standard under the federal Clean Air Act. In addition, the 40018
director may give a higher priority to a school district that 40019
employs additional measures that reduce air pollution from the 40020

district's school bus fleet. 40021

The director shall adopt rules establishing procedures and requirements that are necessary to implement this section, including procedures and requirements governing applications for grants. 40022
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Sec. 3704.99. (A) Whoever recklessly violates division (A), 40026
(B), (C), (D), (E), (F), (G), or (I) of section 3704.05 or 40027
division (B)(5) of section 3704.16 of the Revised Code shall be 40028
fined not more than twenty-five thousand dollars or imprisoned not 40029
more than one year, or both, for each violation. Each day the 40030
violation continues after a conviction for a violation is a 40031
separate offense. 40032

(B) Whoever knowingly violates division (H), (J), or (K) of 40033
section 3704.05 of the Revised Code shall be fined not more than 40034
ten thousand dollars for each day of each such violation. 40035

(C) Whoever violates section 3704.15 ~~or division (B)(1) or~~ 40036
~~(2) or (C)(1) or (2) of section 3704.17~~ of the Revised Code is 40037
guilty of a misdemeanor of the first degree. 40038

(D) Whoever violates division (B)(2) or knowingly violates 40039
division (C)(1) of section 3704.16 of the Revised Code is guilty 40040
of a minor misdemeanor. 40041

(E) Whoever violates division (B)(1) or (3) or knowingly 40042
violates division (C)(2) or (3) of section 3704.16 of the Revised 40043
Code shall be fined not less than five hundred nor more than 40044
twenty-five hundred dollars for each day of each violation. 40045

(F) Whoever recklessly violates division (B)(4) of section 40046
3704.16 of the Revised Code shall be fined not more than 40047
twenty-five thousand dollars or imprisoned not more than one year, 40048
or both, for each violation. Each day the violation continues 40049
after a conviction for a violation is a separate offense. 40050

(G) The sentencing court, in addition to the penalty provided 40051
in divisions (D), (E), and (F) of this section, shall order the 40052
offender to restore within thirty days any emission control system 40053
that was tampered with in connection with the violation or to 40054
provide proof that the motor vehicle whose emission control system 40055
was tampered with has been dismantled or destroyed. The court may 40056
extend that deadline for good cause shown. If the offender does 40057
not take the corrective action ordered under this division, each 40058
day that the violation continues is a separate offense. Violation 40059
of a court order entered under this division is punishable as 40060
contempt under Chapter 2705. of the Revised Code. 40061

Sec. 3705.24. (A)(1) The public health council shall, in 40062
accordance with section 111.15 of the Revised Code, adopt rules 40063
prescribing fees for the following services provided by the state 40064
office of vital statistics: 40065

(a) Except as provided in division (A)(4) of this section: 40066

(i) A certified copy of a vital record or a certification of 40067
birth; 40068

(ii) A search by the office of vital statistics of its files 40069
and records pursuant to a request for information, regardless of 40070
whether a copy of a record is provided; 40071

(iii) A copy of a record provided pursuant to a request; 40072

(b) Replacement of a birth certificate following an adoption, 40073
legitimation, paternity determination or acknowledgement, or court 40074
order; 40075

(c) Filing of a delayed registration of a vital record; 40076

(d) Amendment of a vital record that is requested later than 40077
one year after the filing date of the vital record; 40078

(e) Any other documents or services for which the public 40079

health council considers the charging of a fee appropriate. 40080

(2) Fees prescribed under division (A)(1)(a) of this section 40081
shall not be less than seven dollars. 40082

(3) Fees prescribed under division (A)(1) of this section 40083
shall be collected in addition to any ~~fee~~ fees required by ~~section~~ 40084
sections 3109.14 and 3705.242 of the Revised Code. 40085

(4) Fees prescribed under division (A) of this section shall 40086
not apply to certifications issued under division (H) of this 40087
section or copies provided under section 3705.241 of the Revised 40088
Code. 40089

(B) In addition to the fees prescribed under division (A) of 40090
this section or section 3709.09 of the Revised Code, the office of 40091
vital statistics or the board of health of a city or general 40092
health district shall charge a five-dollar fee for each certified 40093
copy of a vital record and each certification of birth. This fee 40094
shall be deposited in the general operations fund created under 40095
section 3701.83 of the Revised Code and be used solely toward the 40096
modernization and automation of the system of vital records in 40097
this state. A board of health shall forward all fees collected 40098
under this division to the department of health not later than 40099
thirty days after the end of each calendar quarter. 40100

(C) Except as otherwise provided in division (H) of this 40101
section, and except as provided in section 3705.241 of the Revised 40102
Code, fees collected by the director of health under sections 40103
3705.01 to 3705.29 of the Revised Code shall be paid into the 40104
state treasury to the credit of the general operations fund 40105
created by section 3701.83 of the Revised Code. Except as provided 40106
in division (B) of this section, money generated by the fees shall 40107
be used only for administration and enforcement of this chapter 40108
and the rules adopted under it. Amounts submitted to the 40109
department of health for copies of vital records or services in 40110

excess of the fees imposed by this section shall be dealt with as follows: 40111
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(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. 40113
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(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment. 40117
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(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. 40119
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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, 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, fetal death, death, or military service certificate shall be: 40124
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(1) In primary registration districts of over two hundred fifty thousand, twenty cents; 40133
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(2) In primary registration districts of over one hundred twenty-five thousand and less than two hundred fifty thousand, sixty cents; 40135
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40137

(3) In primary registration districts of over fifty thousand and less than one hundred twenty-five thousand, eighty cents; 40138
40139

(4) In primary registration districts of less than fifty 40140

thousand, one dollar. 40141

(E) The director of health shall annually certify to the 40142
county treasurers of the several counties the number of birth, 40143
fetal death, death, and military service certificates registered 40144
from their respective counties with the names of the local 40145
registrars and the amounts due each registrar and health district 40146
at the rates fixed in this section. Such amounts shall be paid by 40147
the treasurer of the county in which the registration districts 40148
are located. No fees shall be charged or collected by registrars 40149
except as provided by this chapter and section 3109.14 of the 40150
Revised Code. 40151

(F) A probate judge shall be paid a fee of fifteen cents for 40152
each certified abstract of marriage prepared and forwarded by the 40153
probate judge to the department of health pursuant to section 40154
3705.21 of the Revised Code. The fee shall be in addition to the 40155
fee paid for a marriage license and shall be paid by the 40156
applicants for the license. 40157

(G) The clerk of a court of common pleas shall be paid a fee 40158
of one dollar for each certificate of divorce, dissolution, and 40159
annulment of marriage prepared and forwarded by the clerk to the 40160
department pursuant to section 3705.21 of the Revised Code. The 40161
fee for the certified abstract of divorce, dissolution, or 40162
annulment of marriage shall be added to the court costs allowed in 40163
these cases. 40164

(H) The fee for an heirloom certification of birth issued 40165
pursuant to division (B)(2) of section 3705.23 of the Revised Code 40166
shall be an amount prescribed by rule by the director of health 40167
plus any fee required by section 3109.14 of the Revised Code. In 40168
setting the amount of the fee, the director shall establish a 40169
surcharge in addition to an amount necessary to offset the expense 40170
of processing heirloom certifications of birth. The fee prescribed 40171

by the director of health pursuant to this division shall be 40172
deposited into the state treasury to the credit of the heirloom 40173
certification of birth fund which is hereby created. Money 40174
credited to the fund shall be used by the office of vital 40175
statistics to offset the expense of processing heirloom 40176
certifications of birth. However, the money collected for the 40177
surcharge, subject to the approval of the controlling board, shall 40178
be used for the purposes specified by the family and children 40179
first council pursuant to section 121.37 of the Revised Code. 40180

Sec. 3705.242. (A)(1) The director of health, a person 40181
authorized by the director, a local commissioner of health, or a 40182
local registrar of vital statistics shall charge and collect a fee 40183
of one dollar and fifty cents for each certified copy of a birth 40184
record, each certification of birth, and each copy of a death 40185
record. The fee is in addition to the fee imposed by section 40186
3705.24 or any other section of the Revised Code. A local 40187
commissioner of health or local registrar of vital statistics may 40188
retain an amount of each additional fee collected, not to exceed 40189
three per cent of the amount of the additional fee, to be used for 40190
costs directly related to the collection of the fee and the 40191
forwarding of the fee to the treasurer of state. 40192

(2) On the filing of a divorce decree under section 3105.10 40193
or a decree of dissolution under section 3105.65 of the Revised 40194
Code, a court of common pleas shall charge and collect a fee of 40195
five dollars and fifty cents. The fee is in addition to any other 40196
court costs or fees. The county clerk of courts may retain an 40197
amount of each additional fee collected, not to exceed three per 40198
cent of the amount of the additional fee, to be used for costs 40199
directly related to the collection of the fee and the forwarding 40200
of the fee to the treasurer of state. 40201

(B) The additional fees collected, but not retained, under 40202

this section during each month shall be forwarded not later than 40203
the tenth day of the immediately following month to the treasurer 40204
of state, who shall deposit the fees in the state treasury to the 40205
credit of the family violence prevention fund, which is hereby 40206
created. A person or government entity that fails to forward the 40207
fees in a timely manner, as determined by the treasurer of state, 40208
shall forward to the treasurer of state, in addition to the fees, 40209
a penalty equal to ten per cent of the fees. 40210

The treasurer of state shall invest the moneys in the fund. 40211
All earnings resulting from investment of the fund shall be 40212
credited to the fund, except that actual administration costs 40213
incurred by the treasurer of state in administering the fund may 40214
be deducted from the earnings resulting from investments. The 40215
amount that may be deducted shall not exceed three per cent of the 40216
total amount of fees credited to the fund in each fiscal year. The 40217
balance of the investment earnings shall be credited to the fund. 40218

(C) The director of public safety shall use money credited to 40219
the fund to provide grants to family violence shelters in Ohio. 40220

Sec. 3712.03. (A) In accordance with Chapter 119. of the 40221
Revised Code, the public health council shall adopt, and may amend 40222
and rescind, rules: 40223

(1) Providing for the licensing of persons or public agencies 40224
providing hospice care programs within this state by the 40225
department of health and for the suspension and revocation of 40226
licenses; 40227

(2) Establishing a license fee and license renewal fee not to 40228
exceed three hundred dollars. The fees shall cover the three-year 40229
period during which an existing license is valid as provided in 40230
division (B) of section 3712.04 of the Revised Code. 40231

(3) Establishing an inspection fee not to exceed one thousand 40232

<u>seven hundred fifty dollars;</u>	40233
<u>(4)</u> Establishing requirements for hospice care program facilities and services;	40234 40235
(4) <u>(5)</u> Providing for a waiver of the requirement for the provision of physical, occupational, or speech or language therapy contained in division (A)(2) of section 3712.01 of the Revised Code when the requirement would create a hardship because such therapy is not readily available in the geographic area served by the provider of a hospice care program;	40236 40237 40238 40239 40240 40241
(5) <u>(6)</u> Providing for the granting of licenses to provide hospice care programs to persons and public agencies that are accredited or certified to provide such programs by an entity whose standards for accreditation or certification equal or exceed those provided for licensure under this chapter and rules adopted under it; and	40242 40243 40244 40245 40246 40247
(6) <u>(7)</u> Establishing interpretive guidelines for each rule.	40248
(B) Subject to the approval of the controlling board, the public health council may establish fees in excess of the amounts provided by sections 3712.01 and 3712.03 to 3712.06 of the Revised Code, provided that the fees do not exceed those amounts by greater than fifty per cent.	40249 40250 40251 40252 40253
(C) The department of health shall:	40254
(1) Grant, suspend, and revoke licenses for hospice care programs in accordance with this chapter and rules adopted under it;	40255 40256 40257
(2) Make such inspections as are necessary to determine whether hospice care program facilities and services meet the requirements of this chapter and rules adopted under it; and	40258 40259 40260
(3) Implement and enforce this chapter and rules adopted under it.	40261 40262

Sec. 3714.07. (A)(1) For the purpose of assisting boards of health and the environmental protection agency in administering and enforcing this chapter and rules adopted under it, there is hereby levied on the disposal of construction and demolition debris at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code a fee of thirty cents per cubic yard or sixty cents per ton, as applicable.

(2) The owner or operator of a construction and demolition debris facility or a solid waste facility shall determine if cubic yards or tons will be used as the unit of measurement. In estimating the fee based on cubic yards, the owner or operator shall utilize either the maximum cubic yard capacity of the container, or the hauling volume of the vehicle, that transports the construction and demolition debris to the facility or the cubic yards actually logged for disposal by the owner or operator in accordance with rules adopted under section 3714.02 of the Revised Code. If basing the fee on tonnage, the owner or operator shall use certified scales to determine the tonnage of construction and demolition debris that is transported to the facility for disposal.

(3) The owner or operator of a construction and demolition debris facility or a solid waste facility shall collect the fee levied under division (A) of this section as a trustee for the health district having jurisdiction over the facility, if that district is on the approved list under section 3714.09 of the Revised Code, or for the state. The owner or operator shall prepare and file with the appropriate board of health or the director of environmental protection monthly returns indicating the total volume or weight, as applicable, of construction and demolition debris received for disposal at the facility and the

total amount of money required to be collected on the construction 40294
and demolition debris disposed of during that month. Not later 40295
than thirty days after the last day of the month to which the 40296
return applies, the owner or operator shall mail to the board of 40297
health or the director the return for that month together with the 40298
money required to be collected on the construction and demolition 40299
debris disposed of during that month. The owner or operator may 40300
request, in writing, an extension of not more than thirty days 40301
after the last day of the month to which the return applies. A 40302
request for extension may be denied. If the owner or operator 40303
submits the money late, the owner or operator shall pay a penalty 40304
of ten per cent of the amount of the money due for each month that 40305
it is late. 40306

(4) Of the money that is collected from a construction and 40307
demolition debris facility or a solid waste facility on a per 40308
cubic yard or per ton basis under this section, a board of health 40309
shall transmit three cents per cubic yard or six cents per ton, as 40310
applicable, to the director not later than forty-five days after 40311
the receipt of the money. The money retained by a board of health 40312
under this section shall be paid into a special fund, which is 40313
hereby created in each health district, and used solely to 40314
administer and enforce this chapter and rules adopted under it. 40315

The director shall transmit all money received from the 40316
boards of health of health districts under this section and all 40317
money from the disposal fee collected by the director under this 40318
section to the treasurer of state to be credited to the 40319
construction and demolition debris facility oversight fund, which 40320
is hereby created in the state treasury. The fund shall be 40321
administered by the director, and money credited to the fund shall 40322
be used exclusively for the administration and enforcement of this 40323
chapter and rules adopted under it. 40324

(B) The board of health of a health district or the director 40325

may enter into an agreement with the owner or operator of a
construction and demolition debris facility or a solid waste
facility for the quarterly payment of the money collected from the
disposal fee. The board of health shall notify the director of any
such agreement. Not later than forty-five days after receipt of
the quarterly payment, the board of health shall transmit the
amount established in division (A)~~(5)~~(4) of this section to the
director. The money retained by the board of health shall be
deposited in the special fund of the district as required under
that division. Upon receipt of the money from a board of health,
the director shall transmit the money to the treasurer of state to
be credited to the construction and demolition debris facility
oversight fund.

(C) If a construction and demolition debris facility or a
solid waste facility is located within the territorial boundaries
of a municipal corporation or the unincorporated area of a
township, the municipal corporation or township may appropriate up
to four cents per cubic yard or up to eight cents per ton of the
disposal fee required to be paid by the facility under division
(A) of this section for the same purposes that a municipal
corporation or township may levy a fee under division (C) of
section 3734.57 of the Revised Code.

The legislative authority of the municipal corporation or
township may appropriate the money from the fee by enacting an
ordinance or adopting a resolution establishing the amount of the
fee to be appropriated. Upon doing so, the legislative authority
shall mail a certified copy of the ordinance or resolution to the
board of health of the health district in which the construction
and demolition debris facility or the solid waste facility is
located or, if the facility is located in a health district that
is not on the approved list under section 3714.09 of the Revised
Code, to the director. Upon receipt of the copy of the ordinance

or resolution and not later than forty-five days after receipt of 40358
money collected from the fee, the board or the director, as 40359
applicable, shall transmit to the treasurer or other appropriate 40360
officer of the municipal corporation or clerk of the township that 40361
portion of the money collected from the disposal fee by the owner 40362
or operator of the facility that is required by the ordinance or 40363
resolution to be paid to that municipal corporation or township. 40364

Money received by the treasurer or other appropriate officer 40365
of a municipal corporation under this division shall be paid into 40366
the general fund of the municipal corporation. Money received by 40367
the clerk of a township under this division shall be paid into the 40368
general fund of the township. The treasurer or other officer of 40369
the municipal corporation or the clerk of the township, as 40370
appropriate, shall maintain separate records of the money received 40371
under this division. 40372

The legislative authority of a municipal corporation or 40373
township may cease collecting money under this division by 40374
repealing the ordinance or resolution that was enacted or adopted 40375
under this division. 40376

(D) The board of county commissioners of a county in which a 40377
construction and demolition debris facility or a solid waste 40378
facility is located may appropriate up to three cents per cubic 40379
yard or up to six cents per ton of the disposal fee required to be 40380
paid by the facility under division (A) of this section for the 40381
same purposes that a solid waste management district may levy a 40382
fee under division (B) of section 3734.57 of the Revised Code. 40383

The board of county commissioners may appropriate the money 40384
from the fee by adopting a resolution establishing the amount of 40385
the fee to be appropriated. Upon doing so, the board of county 40386
commissioners shall mail a certified copy of the resolution to the 40387
board of health of the health district in which the construction 40388

and demolition debris facility or the solid waste facility is 40389
located or, if the facility is located in a health district that 40390
is not on the approved list under section 3714.09 of the Revised 40391
Code, to the director. Upon receipt of the copy of the resolution 40392
and not later than forty-five days after receipt of money 40393
collected from the fee, the board of health or the director, as 40394
applicable, shall transmit to the treasurer of the county that 40395
portion of the money collected from the disposal fee by the owner 40396
or operator of the facility that is required by the resolution to 40397
be paid to that county. 40398

Money received by a county treasurer under this division 40399
shall be paid into the general fund of the county. The county 40400
treasurer shall maintain separate records of the money received 40401
under this division. 40402

A board of county commissioners may cease collecting money 40403
under this division by repealing the resolution that was adopted 40404
under this division. 40405

(E)(1) This section does not apply to the disposal of 40406
construction and demolition debris at a solid waste facility that 40407
is licensed under Chapter 3734. of the Revised Code if there is no 40408
construction and demolition debris facility licensed under this 40409
chapter within ~~forty~~ thirty-five miles of the solid waste facility 40410
as determined by a facility's property boundaries. 40411

(2) This section does not apply to the disposal of 40412
construction and demolition debris at a solid waste facility that 40413
is licensed under Chapter 3734. of the Revised Code if the owner 40414
or operator of the facility chooses to collect fees on the 40415
disposal of the construction and demolition debris that are 40416
identical to the fees that are collected under Chapters 343. and 40417
3734. of the Revised Code on the disposal of solid wastes at that 40418
facility. 40419

(3) This section does not apply to the disposal of source separated materials that are exclusively composed of reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone at a construction and demolition debris facility that is licensed under this chapter when either of the following applies: 40420
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(a) The materials are placed within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, are not placed within the unloading zone of the facility, and are used as a fire prevention measure in accordance with rules adopted by the director under section 3714.02 of the Revised Code. 40426
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(b) The materials are not placed within the unloading zone of the facility or within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, but are used as fill material, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in legitimate fill operations for construction purposes at the facility or to bring the facility up to a consistent grade. 40433
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Sec. 3714.073. (A) In addition to the fee levied under division (A)(1) of section 3714.07 of the Revised Code, beginning July 1, 2005, there is hereby levied on the disposal of construction and demolition debris at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code the following fees: 40441
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(1) A fee of twelve and one-half cents per cubic yard or twenty-five cents per ton, as applicable, the proceeds of which shall be deposited in the state treasury to the credit of the soil 40448
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and water conservation district assistance fund created in section 40451
1515.14 of the Revised Code; 40452

(2) A fee of thirty seven and one-half cents per cubic yard 40453
or seventy-five cents per ton, as applicable, the proceeds of 40454
which shall be deposited in the state treasury to the credit of 40455
the recycling and litter prevention fund created in section 40456
1502.02 of the Revised Code. 40457

(B) The owner or operator of a construction and demolition 40458
debris facility or a solid waste facility, as a trustee of the 40459
state, shall collect the fees levied under this section and remit 40460
the money from the fees in the manner that is established in 40461
divisions (A)(2) and (3) of section 3714.07 of the Revised Code 40462
for the fee that is levied under division (A)(1) of that section. 40463

(C) The money that is collected from a construction and 40464
demolition debris facility or a solid waste facility and remitted 40465
to a board of health or the director of environmental protection, 40466
as applicable, pursuant to this section shall be transmitted by 40467
the board or director to the treasurer of state to be credited to 40468
the soil and water conservation district assistance fund or the 40469
recycling and litter prevention fund, as applicable. 40470

(D) This section does not apply to the disposal of 40471
construction and demolition debris at a solid waste facility that 40472
is licensed under Chapter 3734. of the Revised Code if the owner 40473
or operator of the facility chooses to collect fees on the 40474
disposal of the construction and demolition debris that are 40475
identical to the fees that are collected under Chapters 343. and 40476
3734. of the Revised Code on the disposal of solid wastes at that 40477
facility. 40478

(E) This section does not apply to the disposal of source 40479
separated materials that are exclusively composed of reinforced or 40480
nonreinforced concrete, asphalt, clay tile, building or paving 40481

brick, or building or paving stone at a construction and 40482
demolition debris facility that is licensed under this chapter 40483
when either of the following applies: 40484

(1) The materials are placed within the limits of 40485
construction and demolition debris placement at the facility as 40486
specified in the license issued to the facility under section 40487
3714.06 of the Revised Code, are not placed within the unloading 40488
zone of the facility, and are used as a fire prevention measure in 40489
accordance with rules adopted by the director under section 40490
3714.02 of the Revised Code. 40491

(2) The materials are not placed within the unloading zone of 40492
the facility or within the limits of construction and demolition 40493
debris placement at the facility as specified in the license 40494
issued to the facility under section 3714.06 of the Revised Code, 40495
but are used as fill material, either alone or in conjunction with 40496
clean soil, sand, gravel, or other clean aggregates, in legitimate 40497
fill operations for construction purposes at the facility or to 40498
bring the facility up to a consistent grade. 40499

Sec. 3715.04. (A) As used in this section: 40500

(1) "Certificate of health and freesale" means a document 40501
issued by the director of agriculture that certifies to states and 40502
countries receiving products that the products have been produced 40503
and warehoused in this state under sanitary conditions at a food 40504
processing establishment or at a place of business of a 40505
manufacturer of over-the-counter drugs or cosmetics, as 40506
applicable, that has been inspected by the department of 40507
agriculture. Other names of documents that are synonymous with 40508
"certificate of health and freesale" include, but are not limited 40509
to, "sanitary certificate of health and freesale"; "certificate of 40510
origin"; "certificate of freesale"; "certificate of health and 40511
origin"; "certificate of freesale, sanitary and purity"; and 40512

"certificate of freesale, health and origin." 40513

(2) "Food processing establishment" has the same meaning as 40514
in section 3715.021 of the Revised Code. 40515

(B) Upon the request of a food processing establishment, 40516
manufacturer of over-the-counter drugs, or manufacturer of 40517
cosmetics, the director may issue a certificate of health and 40518
freesale after determining that conditions at the establishment or 40519
place of business of the manufacturer, as applicable, have been 40520
found to be sanitary through an inspection conducted pursuant to 40521
this chapter. For each certificate issued, the director shall 40522
charge the establishment or manufacturer a fee in the amount of 40523
twenty dollars. The director shall deposit all fees collected 40524
under this section to the credit of the food safety fund created 40525
in section 915.24 of the Revised Code. 40526

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 40527
3721.99 of the Revised Code: 40528

(1)(a) "Home" means an institution, residence, or facility 40529
that provides, for a period of more than twenty-four hours, 40530
whether for a consideration or not, accommodations to three or 40531
more unrelated individuals who are dependent upon the services of 40532
others, including a nursing home, residential care facility, home 40533
for the aging, and a veterans' home operated under Chapter 5907. 40534
of the Revised Code. 40535

(b) "Home" also means both of the following: 40536

(i) Any facility that a person, as defined in section 3702.51 40537
of the Revised Code, proposes for certification as a skilled 40538
nursing facility or nursing facility under Title XVIII or XIX of 40539
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 40540
as amended, and for which a certificate of need, other than a 40541
certificate to recategorize hospital beds as described in section 40542

3702.522 of the Revised Code or division (R)(7)(d) of the version 40543
of section 3702.51 of the Revised Code in effect immediately prior 40544
to April 20, 1995, has been granted to the person under sections 40545
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 40546

(ii) A county home or district home that is or has been 40547
licensed as a residential care facility. 40548

(c) "Home" does not mean any of the following: 40549

(i) Except as provided in division (A)(1)(b) of this section, 40550
a public hospital or hospital as defined in section 3701.01 or 40551
5122.01 of the Revised Code; 40552

(ii) A residential facility for mentally ill persons as 40553
defined under section 5119.22 of the Revised Code; 40554

(iii) A residential facility as defined in section 5123.19 of 40555
the Revised Code; 40556

~~(iv) A habilitation center as defined in section 5123.041 of~~ 40557
~~the Revised Code;~~ 40558

~~(v)~~ A community alternative home as defined in section 40559
3724.01 of the Revised Code; 40560

~~(vi)~~(vi) An adult care facility as defined in section 3722.01 40561
of the Revised Code; 40562

~~(vii)~~(vi) An alcohol or drug addiction program as defined in 40563
section 3793.01 of the Revised Code; 40564

~~(viii)~~(vii) A facility licensed to provide methadone 40565
treatment under section 3793.11 of the Revised Code; 40566

~~(ix)~~(viii) A facility providing services under contract with 40567
the department of mental retardation and developmental 40568
disabilities under section 5123.18 of the Revised Code; 40569

~~(x)~~(ix) A facility operated by a hospice care program 40570
licensed under section 3712.04 of the Revised Code that is used 40571

exclusively for care of hospice patients; 40572

~~(xi)~~(x) A facility, infirmary, or other entity that is 40573
operated by a religious order, provides care exclusively to 40574
members of religious orders who take vows of celibacy and live by 40575
virtue of their vows within the orders as if related, and does not 40576
participate in the medicare program established under Title XVIII 40577
of the "Social Security Act" or the medical assistance program 40578
established under Chapter 5111. of the Revised Code and Title XIX 40579
of the "Social Security Act," if on January 1, 1994, the facility, 40580
infirmary, or entity was providing care exclusively to members of 40581
the religious order; 40582

~~(xii)~~(xi) A county home or district home that has never been 40583
licensed as a residential care facility. 40584

(2) "Unrelated individual" means one who is not related to 40585
the owner or operator of a home or to the spouse of the owner or 40586
operator as a parent, grandparent, child, grandchild, brother, 40587
sister, niece, nephew, aunt, uncle, or as the child of an aunt or 40588
uncle. 40589

(3) "Mental impairment" does not mean mental illness as 40590
defined in section 5122.01 of the Revised Code or mental 40591
retardation as defined in section 5123.01 of the Revised Code. 40592

(4) "Skilled nursing care" means procedures that require 40593
technical skills and knowledge beyond those the untrained person 40594
possesses and that are commonly employed in providing for the 40595
physical, mental, and emotional needs of the ill or otherwise 40596
incapacitated. "Skilled nursing care" includes, but is not limited 40597
to, the following: 40598

(a) Irrigations, catheterizations, application of dressings, 40599
and supervision of special diets; 40600

(b) Objective observation of changes in the patient's 40601
condition as a means of analyzing and determining the nursing care 40602

required and the need for further medical diagnosis and treatment;	40603
(c) Special procedures contributing to rehabilitation;	40604
(d) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication;	40605 40606 40607
(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.	40608 40609 40610
(5)(a) "Personal care services" means services including, but not limited to, the following:	40611 40612
(i) Assisting residents with activities of daily living;	40613
(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code;	40614 40615 40616
(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under section 3721.04 of the Revised Code.	40617 40618 40619 40620
(b) "Personal care services" does not include "skilled nursing care" as defined in division (A)(4) of this section. A facility need not provide more than one of the services listed in division (A)(5)(a) of this section to be considered to be providing personal care services.	40621 40622 40623 40624 40625
(6) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care.	40626 40627 40628 40629 40630 40631
(7) "Residential care facility" means a home that provides	40632

either of the following: 40633

(a) Accommodations for seventeen or more unrelated 40634
individuals and supervision and personal care services for three 40635
or more of those individuals who are dependent on the services of 40636
others by reason of age or physical or mental impairment; 40637

(b) Accommodations for three or more unrelated individuals, 40638
supervision and personal care services for at least three of those 40639
individuals who are dependent on the services of others by reason 40640
of age or physical or mental impairment, and, to at least one of 40641
those individuals, any of the skilled nursing care authorized by 40642
section 3721.011 of the Revised Code. 40643

(8) "Home for the aging" means a home that provides services 40644
as a residential care facility and a nursing home, except that the 40645
home provides its services only to individuals who are dependent 40646
on the services of others by reason of both age and physical or 40647
mental impairment. 40648

The part or unit of a home for the aging that provides 40649
services only as a residential care facility is licensed as a 40650
residential care facility. The part or unit that may provide 40651
skilled nursing care beyond the extent authorized by section 40652
3721.011 of the Revised Code is licensed as a nursing home. 40653

(9) "County home" and "district home" mean a county home or 40654
district home operated under Chapter 5155. of the Revised Code. 40655

(B) The public health council may further classify homes. For 40656
the purposes of this chapter, any residence, institution, hotel, 40657
congregate housing project, or similar facility that meets the 40658
definition of a home under this section is such a home regardless 40659
of how the facility holds itself out to the public. 40660

(C) For purposes of this chapter, personal care services or 40661
skilled nursing care shall be considered to be provided by a 40662

facility if they are provided by a person employed by or 40663
associated with the facility or by another person pursuant to an 40664
agreement to which neither the resident who receives the services 40665
nor the resident's sponsor is a party. 40666

(D) Nothing in division (A)(4) of this section shall be 40667
construed to permit skilled nursing care to be imposed on an 40668
individual who does not require skilled nursing care. 40669

Nothing in division (A)(5) of this section shall be construed 40670
to permit personal care services to be imposed on an individual 40671
who is capable of performing the activity in question without 40672
assistance. 40673

(E) Division (A)(1)(c)~~(xi)~~(x) of this section does not 40674
prohibit a facility, infirmary, or other entity described in that 40675
division from seeking licensure under sections 3721.01 to 3721.09 40676
of the Revised Code or certification under Title XVIII or XIX of 40677
the "Social Security Act." However, such a facility, infirmary, or 40678
entity that applies for licensure or certification must meet the 40679
requirements of those sections or titles and the rules adopted 40680
under them and obtain a certificate of need from the director of 40681
health under section 3702.52 of the Revised Code. 40682

(F) Nothing in this chapter, or rules adopted pursuant to it, 40683
shall be construed as authorizing the supervision, regulation, or 40684
control of the spiritual care or treatment of residents or 40685
patients in any home who rely upon treatment by prayer or 40686
spiritual means in accordance with the creed or tenets of any 40687
recognized church or religious denomination. 40688

Sec. 3721.011. (A) In addition to providing accommodations, 40689
supervision, and personal care services to its residents, a 40690
residential care facility may provide skilled nursing care as 40691
follows: 40692

(1) Supervision of special diets;	40693
(2) Application of dressings, in accordance with rules adopted under section 3721.04 of the Revised Code;	40694 40695
(3) Providing for the administration of medication to residents, to the extent authorized under division (B)(1) of this section;	40696 40697 40698
(4) Other skilled nursing care provided on a part-time, intermittent basis pursuant to division (C) of this section.	40699 40700
A residential care facility may not admit or retain an individual requiring skilled nursing care that is not authorized by this section. A residential care facility may not provide skilled nursing care beyond the limits established by this section.	40701 40702 40703 40704 40705
(B)(1) A residential care facility may admit or retain an individual requiring medication, including biologicals, only if the individual's personal physician has determined in writing that the individual is capable of self-administering the medication or the facility provides for the medication to be administered to the individual by a home health agency certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended; a hospice care program licensed under Chapter 3712. of the Revised Code; or a member of the staff of the residential care facility who is qualified to perform medication administration. Medication may be administered in a residential care facility only by the following persons authorized by law to administer medication:	40706 40707 40708 40709 40710 40711 40712 40713 40714 40715 40716 40717 40718
(a) A registered nurse licensed under Chapter 4723. of the Revised Code;	40719 40720
(b) A licensed practical nurse licensed under Chapter 4723. of the Revised Code who holds proof of successful completion of a	40721 40722

course in medication administration approved by the board of 40723
nursing and who administers the medication only at the direction 40724
of a registered nurse or a physician authorized under Chapter 40725
4731. of the Revised Code to practice medicine and surgery or 40726
osteopathic medicine and surgery; 40727

(c) A medication aide certified under Chapter 4723. of the 40728
Revised Code; 40729

(d) A physician authorized under Chapter 4731. of the Revised 40730
Code to practice medicine and surgery or osteopathic medicine and 40731
surgery. 40732

(2) In assisting a resident with self-administration of 40733
medication, any member of the staff of a residential care facility 40734
may do the following: 40735

(a) Remind a resident when to take medication and watch to 40736
ensure that the resident follows the directions on the container; 40737

(b) Assist a resident by taking the medication from the 40738
locked area where it is stored, in accordance with rules adopted 40739
pursuant to section 3721.04 of the Revised Code, and handing it to 40740
the resident. If the resident is physically unable to open the 40741
container, a staff member may open the container for the resident. 40742

(c) Assist a physically impaired but mentally alert resident, 40743
such as a resident with arthritis, cerebral palsy, or Parkinson's 40744
disease, in removing oral or topical medication from containers 40745
and in consuming or applying the medication, upon request by or 40746
with the consent of the resident. If a resident is physically 40747
unable to place a dose of medicine to the resident's mouth without 40748
spilling it, a staff member may place the dose in a container and 40749
place the container to the mouth of the resident. 40750

(C) A residential care facility may admit or retain 40751
individuals who require skilled nursing care beyond the 40752

supervision of special diets, application of dressings, or 40753
administration of medication, only if the care will be provided on 40754
a part-time, intermittent basis for not more than a total of one 40755
hundred twenty days in any twelve-month period. In accordance with 40756
Chapter 119. of the Revised Code, the public health council shall 40757
adopt rules specifying what constitutes the need for skilled 40758
nursing care on a part-time, intermittent basis. The council shall 40759
adopt rules that are consistent with rules pertaining to home 40760
health care adopted by the director of job and family services for 40761
the medical assistance program established under Chapter 5111. of 40762
the Revised Code. Skilled nursing care provided pursuant to this 40763
division may be provided by a home health agency certified under 40764
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 40765
U.S.C.A. 301, as amended, a hospice care program licensed under 40766
Chapter 3712. of the Revised Code, or a member of the staff of a 40767
residential care facility who is qualified to perform skilled 40768
nursing care. 40769

A residential care facility that provides skilled nursing 40770
care pursuant to this division shall do both of the following: 40771

(1) Evaluate each resident receiving the skilled nursing care 40772
at least once every seven days to determine whether the resident 40773
should be transferred to a nursing home; 40774

(2) Meet the skilled nursing care needs of each resident 40775
receiving the care. 40776

(D) Notwithstanding any other provision of this chapter, a 40777
residential care facility in which residents receive skilled 40778
nursing care pursuant to this section is not a nursing home. 40779

Sec. 3721.02. (A) The director of health shall license homes 40780
and establish procedures to be followed in inspecting and 40781
licensing homes. The director may inspect a home at any time. Each 40782

home shall be inspected by the director at least once prior to the 40783
issuance of a license and at least once every fifteen months 40784
thereafter. The state fire marshal or a township, municipal, or 40785
other legally constituted fire department approved by the marshal 40786
shall also inspect a home prior to issuance of a license, at least 40787
once every fifteen months thereafter, and at any other time 40788
requested by the director. A home does not have to be inspected 40789
prior to issuance of a license by the director, state fire 40790
marshal, or a fire department if ownership of the home is assigned 40791
or transferred to a different person and the home was licensed 40792
under this chapter immediately prior to the assignment or 40793
transfer. The director may enter at any time, for the purposes of 40794
investigation, any institution, residence, facility, or other 40795
structure that has been reported to the director or that the 40796
director has reasonable cause to believe is operating as a nursing 40797
home, residential care facility, or home for the aging without a 40798
valid license required by section 3721.05 of the Revised Code or, 40799
in the case of a county home or district home, is operating 40800
despite the revocation of its residential care facility license. 40801
The director may delegate the director's authority and duties 40802
under this chapter to any division, bureau, agency, or official of 40803
the department of health. 40804

(B) A single facility may be licensed both as a nursing home 40805
pursuant to this chapter and as an adult care facility pursuant to 40806
Chapter 3722. of the Revised Code if the director determines that 40807
the part or unit to be licensed as a nursing home can be 40808
maintained separate and discrete from the part or unit to be 40809
licensed as an adult care facility. 40810

(C) In determining the number of residents in a home for the 40811
purpose of licensing, the director shall consider all the 40812
individuals for whom the home provides accommodations as one group 40813
unless one of the following is the case: 40814

(1) The home is a home for the aging, in which case all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as a rest home shall be considered as another group.

(2) The home is both a nursing home and an adult care facility. In that case, all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as an adult care facility shall be considered as another group.

(3) The home maintains, in addition to a nursing home or residential care facility, a separate and discrete part or unit that provides accommodations to individuals who do not require or receive skilled nursing care and do not receive personal care services from the home, in which case the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the home if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code and the home permits the director, on request, to inspect the separate and discrete part or unit and speak with the individuals residing there, if they consent, to determine whether the separate and discrete part or unit meets the requirements of this division.

(D) The director of health shall charge an application fee and an annual renewal licensing and inspection fee of one hundred ~~five~~ seventy dollars for each fifty persons or part thereof of a home's licensed capacity. All fees collected by the director for the issuance or renewal of licenses shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use only in administering and enforcing this chapter and rules adopted under it.

(E)(1) Except as otherwise provided in this section, the results of an inspection or investigation of a home that is conducted under this section, including any statement of deficiencies and all findings and deficiencies cited in the statement on the basis of the inspection or investigation, shall be used solely to determine the home's compliance with this chapter or another chapter of the Revised Code in any action or proceeding other than an action commenced under division (I) of section 3721.17 of the Revised Code. Those results of an inspection or investigation, that statement of deficiencies, and the findings and deficiencies cited in that statement shall not be used in any court or in any action or proceeding that is pending in any court and are not admissible in evidence in any action or proceeding unless that action or proceeding is an appeal of an action by the department of health under this chapter or is an action by any department or agency of the state to enforce this chapter or another chapter of the Revised Code.

(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. 3721.03. The (A) As used in this section, "person" has the same meaning as in section 1.59 of the Revised Code.

(B) The director of health shall enforce the provisions of sections 3721.01 to ~~3721.09~~ 3721.13 and 3721.99 of the Revised Code and may issue orders to secure compliance with the provisions of these sections and the rules adopted under them. The director may hold hearings, issue subpoenas, compel testimony, and make adjudications. ~~In~~

The director may issue an order revoking a license in the event the director finds, upon hearing or opportunity afforded

~~therefor pursuant to Chapter 119. of the Revised Code, that any of~~ 40878
~~the following apply to a person, firm, partnership, association,~~ 40879
~~corporation, county home, or district home licensed under section~~ 40880
~~3721.07 of the Revised Code is in violation of:~~ 40881

(1) Has violated any of the provisions of Chapter 3721. of 40882
the Revised Code or rules adopted by the public health council 40883
under it; ~~is in violation of~~ 40884

(2) Has violated any order issued by the director; ~~is~~ 40885

(3) Is not, or any of its principals are not suitable, 40886
morally or financially to operate such an institution; ~~or is~~ 40887

(4) Is not furnishing humane, kind, and adequate treatment 40888
and care, ~~the director may issue an order revoking the license~~ 40889
~~previously issued by the director;~~ 40890

(5) Has had a long-standing pattern of violations of this 40891
chapter or the rules adopted under it that has caused physical, 40892
emotional, mental, or psychosocial harm to one or more residents. 40893
~~Upon~~ 40894

Upon the issuance of any order of revocation, the person 40895
whose license is revoked, or the county home or district home that 40896
has its license revoked, may appeal in accordance with Chapter 40897
119. of the Revised Code. 40898

~~The state fire marshal shall enforce all statutes and rules~~ 40899
~~pertaining to fire safety in homes and shall adopt rules~~ 40900
~~pertaining to fire safety in homes as the marshal determines~~ 40901
~~necessary. The rules adopted by the marshal shall be in addition~~ 40902
~~to those fire safety rules that the board of building standards~~ 40903
~~and the public health council are empowered to adopt and shall be~~ 40904
~~adopted prior to December 31, 1972. In the event of a dispute~~ 40905
~~between the marshal and another officer having responsibilities~~ 40906
~~under sections 3721.01 to 3721.09 of the Revised Code with respect~~ 40907
~~to the interpretation or application of a specific fire safety~~ 40908

~~statute or rule, the interpretation of the marshal shall prevail.~~ 40909

~~If the ownership of a home is assigned or transferred to a
different person, the new owner is responsible and liable for
compliance with any notice of proposed action or order issued
under this section in accordance with Chapter 119. of the Revised
Code prior to the effective date of the assignment or transfer (C)
Once the director notifies a person, county home, or district home
licensed to operate a home that the license may be revoked or
issues any order under this section, the person, county home, or
district home shall not assign or transfer to another person or
entity the right to operate the home. This prohibition shall
remain in effect until proceedings under Chapter 119. of the
Revised Code concerning the order or license revocation have been
concluded or the director notifies the person, county home, or
district home that the prohibition has been lifted.~~ 40910
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~~If a license is revoked under this section, the former
license holder shall not assign or transfer or consent to
assignment or transfer of the right to operate the home. Any
attempted assignment or transfer to another person or entity is
void.~~ 40924
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~~On revocation of a license, the former licensee shall take
all necessary steps to cease operation of the home.~~ 40929
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~~The director of health shall not accept a certificate of need
application under section 3702.52 of the Revised Code regarding a
home if the license to operate the home has been revoked under
this section.~~ 40931
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Sec. 3721.032. ~~The state fire marshal shall enforce all
statutes and rules pertaining to fire safety in homes and shall
adopt rules pertaining to fire safety in homes as the marshal
determines necessary. The rules adopted by the marshal shall be in~~ 40935
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addition to those fire safety rules that the board of building standards and the public health council are empowered to adopt. In the event of a dispute between the marshal and another officer having responsibilities under sections 3721.01 to 3721.09 of the Revised Code with respect to the interpretation or application of a specific fire safety statute or rule, the interpretation of the marshal shall prevail.

Sec. 3721.07. Every person desiring to operate a home and the superintendent or administrator of each county home or district home for which a license as a residential care facility is sought shall apply for a license to the director of health. The director shall issue a license for the home, if after investigation of the applicant and, if required by section 3721.02 of the Revised Code, inspection of the home, the following requirements or conditions are satisfied or complied with:

(A) The applicant has not been convicted of a felony or a crime involving moral turpitude;

(B) The applicant is not violating any of the rules made by the public health council or any order issued by the director of health;

(C) The applicant has not had a license to operate the home revoked pursuant to section 3721.03 of the Revised Code because of any act or omission that jeopardized a resident's health, welfare, or safety nor has the applicant had a long-standing pattern of violations of this chapter or rules adopted under it that caused physical, emotional, mental, or psychosocial harm to one or more residents.

(D) The buildings in which the home is housed have been approved by the state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal.

In the approval of a home such agencies shall apply standards 40969
prescribed by the board of building standards, and by the state 40970
fire marshal, and by section 3721.071 of the Revised Code. 40971

~~(D)~~(E) The applicant, if it is an individual, or the 40972
principal participants, if it is an association or a corporation, 40973
is or are suitable financially and morally to operate a home; 40974

~~(E)~~(F) The applicant is equipped to furnish humane, kind, and 40975
adequate treatment and care; 40976

~~(F)~~(G) The home does not maintain or contain: 40977

(1) Facilities for the performance of major surgical 40978
procedures; 40979

(2) Facilities for providing therapeutic radiation; 40980

(3) An emergency ward; 40981

(4) A clinical laboratory unless it is under the supervision 40982
of a clinical pathologist who is a licensed physician in this 40983
state; 40984

(5) Facilities for radiological examinations unless such 40985
examinations are performed only by a person licensed to practice 40986
medicine, surgery, or dentistry in this state. 40987

~~(G)~~(H) The home does not accept or treat outpatients, except 40988
upon the written orders of a physician licensed in this state, 40989
maternity cases, boarding children, and does not house transient 40990
guests, other than participants in an adult day-care program, for 40991
twenty-four hours or less; 40992

~~(H)~~(I) The home is in compliance with sections 3721.28 and 40993
3721.29 of the Revised Code. 40994

When the director issues a license, the license shall remain 40995
in effect until revoked by the director or voided at the request 40996
of the applicant; provided, there shall be an annual renewal fee 40997
payable during the month of January of each calendar year. Any 40998

licensed home that does not pay its renewal fee in January shall 40999
pay, beginning the first day of February, a late fee of one 41000
hundred dollars for each week or part thereof that the renewal fee 41001
is not paid. If either the renewal fee or the late fee is not paid 41002
by the fifteenth day of February, the director may, in accordance 41003
with Chapter 119. of the Revised Code, revoke the home's license. 41004

If, under division (B)(5) of section 3721.03 of the Revised 41005
Code, the license of a person has been revoked or the license of a 41006
county home or district home to operate as a residential care 41007
facility has been revoked, the director of health shall not issue 41008
a license to the person or home at any time. A person whose 41009
license is revoked, and a county home or district home that has 41010
its license as a residential care facility revoked other than 41011
under division (B)(5) of section 3721.03 of the Revised Code, for 41012
any reason other than nonpayment of the license renewal fee or 41013
late fees ~~may shall not apply for~~ be issued a new license under 41014
this chapter until a period of one year following the date of 41015
revocation has elapsed. 41016

Any applicant who is denied a license may appeal in 41017
accordance with Chapter 119. of the Revised Code. 41018

Sec. 3721.121. (A) As used in this section: 41019

(1) "Adult day-care program" means a program operated 41020
pursuant to rules adopted by the public health council under 41021
section 3721.04 of the Revised Code and provided by and on the 41022
same site as homes licensed under this chapter. 41023

(2) "Applicant" means a person who is under final 41024
consideration for employment with a home or adult day-care program 41025
in a full-time, part-time, or temporary position that involves 41026
providing direct care to an older adult. "Applicant" does not 41027
include a person who provides direct care as a volunteer without 41028

receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses. 41029
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(3) "Criminal records check" and "older adult" have the same meanings as in section 109.572 of the Revised Code. 41031
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(4) "Home" means a home as defined in section 3721.10 of the Revised Code. 41033
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(B)(1) Except as provided in division (I) of this section, the chief administrator of a home or adult day-care program shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check. 41035
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(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following: 41055
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(a) Provide to each applicant for whom a criminal records check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the 41057
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Revised Code and a standard fingerprint impression sheet 41060
prescribed pursuant to division (C)(2) of that section, and obtain 41061
the completed form and impression sheet from the applicant; 41062

(b) Forward the completed form and impression sheet to the 41063
superintendent of the bureau of criminal identification and 41064
investigation. 41065

(3) An applicant provided the form and fingerprint impression 41066
sheet under division (B)(2)(a) of this section who fails to 41067
complete the form or provide fingerprint impressions shall not be 41068
employed in any position for which a criminal records check is 41069
required by this section. 41070

(C)(1) Except as provided in rules adopted by the director of 41071
health in accordance with division (F) of this section and subject 41072
to division (C)(2) of this section, no home or adult day-care 41073
program shall employ a person in a position that involves 41074
providing direct care to an older adult if the person has been 41075
convicted of or pleaded guilty to any of the following: 41076

(a) A violation of section 2903.01, 2903.02, 2903.03, 41077
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 41078
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 41079
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 41080
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 41081
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 41082
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 41083
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 41084
2925.22, 2925.23, or 3716.11 of the Revised Code. 41085

(b) A violation of an existing or former law of this state, 41086
any other state, or the United States that is substantially 41087
equivalent to any of the offenses listed in division (C)(1)(a) of 41088
this section. 41089

(2)(a) A home or an adult day-care program may employ 41090

conditionally an applicant for whom a criminal records check 41091
request is required under division (B) of this section prior to 41092
obtaining the results of a criminal records check regarding the 41093
individual, provided that the home or program shall request a 41094
criminal records check regarding the individual in accordance with 41095
division (B)(1) of this section not later than five business days 41096
after the individual begins conditional employment. In the 41097
circumstances described in division (I)(2) of this section, a home 41098
or adult day-care program may employ conditionally an applicant 41099
who has been referred to the home or adult day-care program by an 41100
employment service that supplies full-time, part-time, or 41101
temporary staff for positions involving the direct care of older 41102
adults and for whom, pursuant to that division, a criminal records 41103
check is not required under division (B) of this section. 41104

(b) A home or adult day-care program that employs an 41105
individual conditionally under authority of division (C)(2)(a) of 41106
this section shall terminate the individual's employment if the 41107
results of the criminal records check requested under division (B) 41108
of this section or described in division (I)(2) of this section, 41109
other than the results of any request for information from the 41110
federal bureau of investigation, are not obtained within the 41111
period ending thirty days after the date the request is made. 41112
Regardless of when the results of the criminal records check are 41113
obtained, if the results indicate that the individual has been 41114
convicted of or pleaded guilty to any of the offenses listed or 41115
described in division (C)(1) of this section, the home or program 41116
shall terminate the individual's employment unless the home or 41117
program chooses to employ the individual pursuant to division (F) 41118
of this section. Termination of employment under this division 41119
shall be considered just cause for discharge for purposes of 41120
division (D)(2) of section 4141.29 of the Revised Code if the 41121
individual makes any attempt to deceive the home or program about 41122

the individual's criminal record. 41123

(D)(1) Each home or adult day-care program shall pay to the 41124
bureau of criminal identification and investigation the fee 41125
prescribed pursuant to division (C)(3) of section 109.572 of the 41126
Revised Code for each criminal records check conducted pursuant to 41127
a request made under division (B) of this section. 41128

(2) A home or adult day-care program may charge an applicant 41129
a fee not exceeding the amount the home or program pays under 41130
division (D)(1) of this section. A home or program may collect a 41131
fee only if both of the following apply: 41132

(a) The home or program notifies the person at the time of 41133
initial application for employment of the amount of the fee and 41134
that, unless the fee is paid, the person will not be considered 41135
for employment; 41136

(b) The medical assistance program established under Chapter 41137
5111. of the Revised Code does not reimburse the home or program 41138
the fee it pays under division (D)(1) of this section. 41139

(E) The report of any criminal records check conducted 41140
pursuant to a request made under this section is not a public 41141
record for the purposes of section 149.43 of the Revised Code and 41142
shall not be made available to any person other than the 41143
following: 41144

(1) The individual who is the subject of the criminal records 41145
check or the individual's representative; 41146

(2) The chief administrator of the home or program requesting 41147
the criminal records check or the administrator's representative; 41148

(3) The administrator of any other facility, agency, or 41149
program that provides direct care to older adults that is owned or 41150
operated by the same entity that owns or operates the home or 41151
program; 41152

(4) A court, hearing officer, or other necessary individual 41153
involved in a case dealing with a denial of employment of the 41154
applicant or dealing with employment or unemployment benefits of 41155
the applicant; 41156

(5) Any person to whom the report is provided pursuant to, 41157
and in accordance with, division (I)(1) or (2) of this section; 41158

(6) The board of nursing for purposes of accepting and 41159
processing an application for a medication aide certificate issued 41160
under Chapter 4723. of the Revised Code. 41161

(F) In accordance with section 3721.11 of the Revised Code, 41162
the director of health shall adopt rules to implement this 41163
section. The rules shall specify circumstances under which a home 41164
or adult day-care program may employ a person who has been 41165
convicted of or pleaded guilty to an offense listed or described 41166
in division (C)(1) of this section but meets personal character 41167
standards set by the director. 41168

(G) The chief administrator of a home or adult day-care 41169
program shall inform each individual, at the time of initial 41170
application for a position that involves providing direct care to 41171
an older adult, that the individual is required to provide a set 41172
of fingerprint impressions and that a criminal records check is 41173
required to be conducted if the individual comes under final 41174
consideration for employment. 41175

(H) In a tort or other civil action for damages that is 41176
brought as the result of an injury, death, or loss to person or 41177
property caused by an individual who a home or adult day-care 41178
program employs in a position that involves providing direct care 41179
to older adults, all of the following shall apply: 41180

(1) If the home or program employed the individual in good 41181
faith and reasonable reliance on the report of a criminal records 41182
check requested under this section, the home or program shall not 41183

be found negligent solely because of its reliance on the report, 41184
even if the information in the report is determined later to have 41185
been incomplete or inaccurate; 41186

(2) If the home or program employed the individual in good 41187
faith on a conditional basis pursuant to division (C)(2) of this 41188
section, the home or program shall not be found negligent solely 41189
because it employed the individual prior to receiving the report 41190
of a criminal records check requested under this section; 41191

(3) If the home or program in good faith employed the 41192
individual according to the personal character standards 41193
established in rules adopted under division (F) of this section, 41194
the home or program shall not be found negligent solely because 41195
the individual prior to being employed had been convicted of or 41196
pleaded guilty to an offense listed or described in division 41197
(C)(1) of this section. 41198

(I)(1) The chief administrator of a home or adult day-care 41199
program is not required to request that the superintendent of the 41200
bureau of criminal identification and investigation conduct a 41201
criminal records check of an applicant if the applicant has been 41202
referred to the home or program by an employment service that 41203
supplies full-time, part-time, or temporary staff for positions 41204
involving the direct care of older adults and both of the 41205
following apply: 41206

(a) The chief administrator receives from the employment 41207
service or the applicant a report of the results of a criminal 41208
records check regarding the applicant that has been conducted by 41209
the superintendent within the one-year period immediately 41210
preceding the applicant's referral; 41211

(b) The report of the criminal records check demonstrates 41212
that the person has not been convicted of or pleaded guilty to an 41213
offense listed or described in division (C)(1) of this section, or 41214

the report demonstrates that the person has been convicted of or
pleaded guilty to one or more of those offenses, but the home or
adult day-care program chooses to employ the individual pursuant
to division (F) of this section.

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(2) The chief administrator of a home or adult day-care
program is not required to request that the superintendent of the
bureau of criminal identification and investigation conduct a
criminal records check of an applicant and may employ the
applicant conditionally as described in this division, if the
applicant has been referred to the home or program by an
employment service that supplies full-time, part-time, or
temporary staff for positions involving the direct care of older
adults and if the chief administrator receives from the employment
service or the applicant a letter from the employment service that
is on the letterhead of the employment service, dated, and signed
by a supervisor or another designated official of the employment
service and that states that the employment service has requested
the superintendent to conduct a criminal records check regarding
the applicant, that the requested criminal records check will
include a determination of whether the applicant has been
convicted of or pleaded guilty to any offense listed or described
in division (C)(1) of this section, that, as of the date set forth
on the letter, the employment service had not received the results
of the criminal records check, and that, when the employment
service receives the results of the criminal records check, it
promptly will send a copy of the results to the home or ~~adult-care~~
adult day-care program. If a home or adult day-care program
employs an applicant conditionally in accordance with this
division, the employment service, upon its receipt of the results
of the criminal records check, promptly shall send a copy of the
results to the home or adult day-care program, and division
(C)(2)(b) of this section applies regarding the conditional

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employment. 41247

Sec. 3721.15. (A) Authorization from a resident or a sponsor 41248
with a power of attorney for a home to manage the resident's 41249
financial affairs shall be in writing and shall be attested to by 41250
a witness who is not connected in any manner whatsoever with the 41251
home or its administrator. The home shall maintain accounts 41252
pursuant to division (A)(27) of section 3721.13 of the Revised 41253
Code. Upon the resident's transfer, discharge, or death, the 41254
account shall be closed and a final accounting made. All remaining 41255
funds shall be returned to the resident or resident's sponsor, 41256
except in the case of death, when all remaining funds shall be 41257
transferred or used in accordance with section ~~5111.112~~ 5111.113 41258
of the Revised Code. 41259

(B) A home that manages a resident's financial affairs shall 41260
deposit the resident's funds in excess of one hundred dollars, and 41261
may deposit the resident's funds that are one hundred dollars or 41262
less, in an interest-bearing account separate from any of the 41263
home's operating accounts. Interest earned on the resident's funds 41264
shall be credited to the resident's account. A resident's funds 41265
that are one hundred dollars or less and have not been deposited 41266
in an interest-bearing account may be deposited in a 41267
noninterest-bearing account or petty cash fund. 41268

(C) Each resident whose financial affairs are managed by a 41269
home shall be promptly notified by the home when the total of the 41270
amount of funds in the resident's accounts and the petty cash fund 41271
plus other nonexempt resources reaches two hundred dollars less 41272
than the maximum amount permitted a recipient of medicaid. The 41273
notice shall include an explanation of the potential effect on the 41274
resident's eligibility for medicaid if the amount in the 41275
resident's accounts and the petty cash fund, plus the value of 41276
other nonexempt resources, exceeds the maximum assets a medicaid 41277

recipient may retain. 41278

(D) Each home that manages the financial affairs of residents 41279
shall purchase a surety bond or otherwise provide assurance 41280
satisfactory to the director of health, or, in the case of a home 41281
that participates in the medicaid program, to the director of job 41282
and family services, to assure the security of all residents' 41283
funds managed by the home. 41284

Sec. 3721.19. (A) As used in this section: 41285

(1) "Home" and "residential care facility" have the same 41286
meanings as in section 3721.01 of the Revised Code; 41287

(2) "Sponsor" and "residents' rights advocate" have the same 41288
meanings as in section 3721.10 of the Revised Code. 41289

A home licensed under this chapter that is not a party to a 41290
provider agreement, as defined in section 5111.20 of the Revised 41291
Code, shall provide each prospective resident, before admission, 41292
with the following information, orally and in a separate written 41293
notice on which is printed in a conspicuous manner: "This home is 41294
not a participant in the medical assistance program administered 41295
by the Ohio department of job and family services. Consequently, 41296
you may be discharged from this home if you are unable to pay for 41297
the services provided by this home." 41298

If the prospective resident has a sponsor whose identity is 41299
made known to the home, the home shall also inform the sponsor, 41300
before admission of the resident, of the home's status relative to 41301
the medical assistance program. Written acknowledgement of the 41302
receipt of the information shall be provided by the resident and, 41303
if the prospective resident has a sponsor who has been identified 41304
to the home, by the sponsor. The written acknowledgement shall be 41305
made part of the resident's record by the home. 41306

No home shall terminate its status as a provider under the 41307

~~medical assistance~~ medicaid program unless it has complied with 41308
section 5111.66 of the Revised Code and, at least ninety days 41309
prior to such termination, provided written notice to the 41310
~~department of job and family services and~~ residents of the home 41311
and their sponsors of such action. This requirement shall not 41312
apply in cases where the department of job and family services 41313
terminates a home's provider agreement or provider status. 41314

(B) A home licensed under this chapter as a residential care 41315
facility shall provide notice to each prospective resident or the 41316
individual's sponsor of the services offered by the facility and 41317
the types of skilled nursing care that the facility may provide. A 41318
residential care facility that, pursuant to section 3721.012 of 41319
the Revised Code, has a policy of entering into risk agreements 41320
with residents or their sponsors shall provide each prospective 41321
resident or the individual's sponsor a written explanation of the 41322
policy and the provisions that may be contained in a risk 41323
agreement. At the time the information is provided, the facility 41324
shall obtain a statement signed by the individual receiving the 41325
information acknowledging that the individual received the 41326
information. The facility shall maintain on file the individual's 41327
signed statement. 41328

(C) A resident has a cause of action against a home for 41329
breach of any duty imposed by this section. The action may be 41330
commenced by the resident, or on the resident's behalf by the 41331
resident's sponsor or a residents' rights advocate, by the filing 41332
of a civil action in the court of common pleas of the county in 41333
which the home is located, or in the court of common pleas of 41334
Franklin county. 41335

If the court finds that a breach of any duty imposed by this 41336
section has occurred, the court shall enjoin the home from 41337
discharging the resident from the home until arrangements 41338
satisfactory to the court are made for the orderly transfer of the 41339

resident to another mode of health care including, but not limited
to, another home, and may award the resident and a person or
public agency that brings an action on behalf of a resident
reasonable attorney's fees. If a home discharges a resident to
whom or to whose sponsor information concerning its status
relative to the medical assistance program was not provided as
required under this section, the court shall grant any appropriate
relief including, but not limited to, actual damages, reasonable
attorney's fees, and costs.

Sec. 3721.21. As used in sections 3721.21 to 3721.34 of the
Revised Code:

(A) "Long-term care facility" means either of the following:

(1) A nursing home as defined in section 3721.01 of the
Revised Code, other than a nursing home or part of a nursing home
certified as an intermediate care facility for the mentally
retarded under Title XIX of the "Social Security Act," 49 Stat.
620 (1935), 42 U.S.C.A. 301, as amended;

(2) A facility or part of a facility that is certified as a
skilled nursing facility or a nursing facility under Title XVIII
or XIX of the "Social Security Act."

(B) "Residential care facility" has the same meaning as in
section 3721.01 of the Revised Code.

(C) "Abuse" means knowingly causing physical harm or
recklessly causing serious physical harm to a resident by physical
contact with the resident or by use of physical or chemical
restraint, medication, or isolation as punishment, for staff
convenience, excessively, as a substitute for treatment, or in
amounts that preclude habilitation and treatment.

(D) "Neglect" means recklessly failing to provide a resident
with any treatment, care, goods, or service necessary to maintain

the health or safety of the resident when the failure results in 41370
serious physical harm to the resident. "Neglect" does not include 41371
allowing a resident, at the resident's option, to receive only 41372
treatment by spiritual means through prayer in accordance with the 41373
tenets of a recognized religious denomination. 41374

(E) "Misappropriation" means depriving, defrauding, or 41375
otherwise obtaining the real or personal property of a resident by 41376
any means prohibited by the Revised Code, including violations of 41377
Chapter 2911. or 2913. of the Revised Code. 41378

(F) "Resident" includes a resident, patient, former resident 41379
or patient, or deceased resident or patient of a long-term care 41380
facility or a residential care facility. 41381

(G) "Physical restraint" has the same meaning as in section 41382
3721.10 of the Revised Code. 41383

(H) "Chemical restraint" has the same meaning as in section 41384
3721.10 of the Revised Code. 41385

(I) "Nursing and nursing-related services" means the personal 41386
care services and other services not constituting skilled nursing 41387
care that are specified in rules the public health council shall 41388
adopt in accordance with Chapter 119. of the Revised Code. 41389

(J) "Personal care services" has the same meaning as in 41390
section 3721.01 of the Revised Code. 41391

(K)(1) Except as provided in division (K)(2) of this section, 41392
"Nurse nurse aide" means an individual, ~~other than a licensed~~ 41393
~~health professional practicing within the scope of the~~ 41394
~~professional's license,~~ who provides nursing and nursing-related 41395
services to residents in a long-term care facility, either as a 41396
member of the staff of the facility for monetary compensation or 41397
as a volunteer without monetary compensation. 41398

(2) "Nurse aide" does not include either of the following: 41399

<u>(a) A licensed health professional practicing within the</u>	41400
<u>scope of the professional's license;</u>	41401
<u>(b) An individual providing nursing and nursing-related</u>	41402
<u>services in a religious nonmedical health care institution, if the</u>	41403
<u>individual has been trained in the principles of nonmedical care</u>	41404
<u>and is recognized by the institution as being competent in the</u>	41405
<u>administration of care within the religious tenets practiced by</u>	41406
<u>the residents of the institution.</u>	41407
(L) "Licensed health professional" means all of the	41408
following:	41409
(1) An occupational therapist or occupational therapy	41410
assistant licensed under Chapter 4755. of the Revised Code;	41411
(2) A physical therapist or physical therapy assistant	41412
licensed under Chapter 4755. of the Revised Code;	41413
(3) A physician authorized under Chapter 4731. of the Revised	41414
Code to practice medicine and surgery, osteopathic medicine and	41415
surgery, or podiatry;	41416
(4) A physician assistant authorized under Chapter 4730. of	41417
the Revised Code to practice as a physician assistant;	41418
(5) A registered nurse or licensed practical nurse licensed	41419
under Chapter 4723. of the Revised Code;	41420
(6) A social worker or independent social worker licensed	41421
under Chapter 4757. of the Revised Code or a social work assistant	41422
registered under that chapter;	41423
(7) A speech-language pathologist or audiologist licensed	41424
under Chapter 4753. of the Revised Code;	41425
(8) A dentist or dental hygienist licensed under Chapter	41426
4715. of the Revised Code;	41427
(9) An optometrist licensed under Chapter 4725. of the	41428

Revised Code;	41429
(10) A pharmacist licensed under Chapter 4729. of the Revised Code;	41430 41431
(11) A psychologist licensed under Chapter 4732. of the Revised Code;	41432 41433
(12) A chiropractor licensed under Chapter 4734. of the Revised Code;	41434 41435
(13) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code;	41436 41437
(14) A professional counselor or professional clinical counselor licensed under Chapter 4757. of the Revised Code.	41438 41439
(M) <u>"Religious nonmedical health care institution" means an institution that meets or exceeds the conditions to receive payment under the medicare program established under Title XVIII of the "Social Security Act" for inpatient hospital services or post-hospital extended care services furnished to an individual in a religious nonmedical health care institution, as defined in section 1861(ss)(1) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395x(ss)(1), as amended.</u>	41440 41441 41442 41443 41444 41445 41446 41447
(N) "Competency evaluation program" means a program through which the competency of a nurse aide to provide nursing and nursing-related services is evaluated.	41448 41449 41450
(N) (O) "Training and competency evaluation program" means a program of nurse aide training and evaluation of competency to provide nursing and nursing-related services.	41451 41452 41453
Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the Revised Code:	41454 41455
(A) <u>"Hospital" has the same meaning as in section 3727.01 of the Revised Code.</u>	41456 41457

(B) "Inpatient days" means all days during which a resident of a nursing facility, regardless of payment source, occupies a bed in the nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days.

(C) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(D) "Medicaid day" means all days during which a resident who is a medicaid recipient occupies a bed in a nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered medicaid days proportionate to the percentage of the nursing facility's per resident per day rate for those days.

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

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

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

(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII of the "~~Social Security Act,~~" ~~49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;~~

(c) A nursing facility ~~as defined in section 5111.20 of the Revised Code,~~ other than a portion of a hospital certified as a nursing facility.

(2) "Nursing home" does not include a <u>any of the following:</u>	41488
(a) <u>A county home, county nursing home, or district home</u>	41489
<u>operated pursuant to Chapter 5155. of the Revised Code or a;</u>	41490
(b) <u>A nursing home maintained and operated by the Ohio</u>	41491
<u>veterans' home agency under section 5907.01 of the Revised Code;</u>	41492
(c) <u>A nursing home or part of a nursing home licensed under</u>	41493
<u>section 3721.02 or 3721.09 of the Revised Code that is certified</u>	41494
<u>as an intermediate care facility for the mentally retarded under</u>	41495
<u>Title XIX of the "Social Security Act."</u>	41496
(B) "Hospital" has the same meaning as in section 3727.01 of	41497
the Revised Code.	41498
(G) <u>"Title XIX" means Title XIX of the "Social Security Act,"</u>	41499
<u>79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.</u>	41500
(H) <u>"Title XVIII" means Title XVIII of the "Social Security</u>	41501
<u>Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.</u>	41502
Sec. 3721.51. The department of job and family services shall	41503
<u>do all of the following:</u>	41504
(A) For <u>Subject to division (C) of this section and for the</u>	41505
<u>purposes specified in section sections 3721.56 and 3721.561 of the</u>	41506
<u>Revised Code, determine an annual franchise permit fee on each</u>	41507
<u>nursing home in an amount equal to three dollars and thirty cents</u>	41508
<u>for fiscal year 2002, four <u>six</u> dollars and <u>thirty twenty-five</u></u>	41509
<u>cents for fiscal years 2003 through 2005, 2006 and 2007 and one</u>	41510
<u>dollar for each fiscal year thereafter, multiplied by the product</u>	41511
<u>of the following:</u>	41512
(1) The number of beds licensed as nursing home beds, plus	41513
any other beds certified as skilled nursing facility beds under	41514
Title XVIII or nursing facility beds under Title XIX of the	41515
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as	41516

~~amended, on July 1, 1993, and, for each subsequent year, the first~~ 41517
day of May of the calendar year in which the fee is determined 41518
pursuant to division (A) of section 3721.53 of the Revised Code; 41519

(2) ~~The number of days in fiscal year 1994 and, for each~~ 41520
~~subsequent year, the~~ number of days in the fiscal year beginning 41521
on the first day of July of the calendar year in which the fee is 41522
determined pursuant to division (A) of section 3721.53 of the 41523
Revised Code. 41524

(B) ~~For~~ Subject to division (C) of this section and for the 41525
purposes specified in ~~section~~ sections 3721.56 and 3721.561 of the 41526
Revised Code, determine an annual franchise permit fee on each 41527
hospital in an amount equal to ~~three dollars and thirty cents for~~ 41528
~~fiscal year 2002, four~~ six dollars and ~~thirty~~ twenty-five cents 41529
for fiscal years ~~2003 through 2005,~~ 2006 and 2007 and one dollar 41530
for each fiscal year thereafter, multiplied by the product of the 41531
following: 41532

(1) The number of beds registered pursuant to section 3701.07 41533
of the Revised Code as skilled nursing facility beds or long-term 41534
care beds, plus any other beds licensed as nursing home beds under 41535
section 3721.02 or 3721.09 of the Revised Code, ~~on July 1, 1993,~~ 41536
~~and, for each subsequent year,~~ the first day of May of the 41537
calendar year in which the fee is determined pursuant to division 41538
(A) of section 3721.53 of the Revised Code; 41539

(2) ~~The number of days in fiscal year 1994 and, for each~~ 41540
~~subsequent year, the~~ number of days in the fiscal year beginning 41541
on the first day of July of the calendar year in which the fee is 41542
determined pursuant to division (A) of section 3721.53 of the 41543
Revised Code. 41544

(C) If the United States centers for medicare and medicaid 41545
services determines that the franchise permit fee established by 41546
sections 3721.50 to 3721.58 of the Revised Code ~~would be~~ is an 41547

impermissible health care related tax under section 1903(w) of the 41548
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 41549
amended, ~~the department of job and family services shall~~ take all 41550
necessary actions to cease implementation of ~~these~~ sections 41551
3721.50 to 3721.58 of the Revised Code in accordance with rules 41552
adopted under section 3721.58 of the Revised Code. 41553

Sec. 3721.52. (A) For the purpose of the fee under division 41554
(A) of section 3721.51 of the Revised Code, the department of 41555
health shall, ~~not later than August 1, 1993, and, for each~~ 41556
~~subsequent year,~~ not later than the first day of each June, report 41557
to the department of job and family services the number of beds in 41558
each nursing home licensed on ~~July 1, 1993, and, for each~~ 41559
~~subsequent year,~~ the preceding first day of May under section 41560
3721.02 or 3721.09 of the Revised Code or certified on that date 41561
under Title XVIII or XIX ~~of the "Social Security Act," 49 Stat.~~ 41562
~~620 (1935), 42 U.S.C.A. 301, as amended.~~ 41563

(B) For the purpose of the fee under division (B) of section 41564
3721.51 of the Revised Code, the department of health shall, ~~not~~ 41565
~~later than August 1, 1993, and, for each subsequent year,~~ not 41566
later than the first day of each June, report to the department of 41567
job and family services the number of beds in each hospital 41568
registered on ~~July 1, 1993, and, for each subsequent year,~~ the 41569
preceding first day of May pursuant to section 3701.07 of the 41570
Revised Code as skilled nursing facility or long-term care beds or 41571
licensed on that date under section 3721.02 or 3721.09 of the 41572
Revised Code as nursing home beds. 41573

Sec. 3721.541. (A) In addition to assessing a penalty 41574
pursuant to section 3721.54 of the Revised Code, the department of 41575
job and family services may do either of the following if a 41576
nursing facility or hospital fails to pay the full amount of a 41577
franchise permit fee installment when due: 41578

(1) Withhold an amount equal to the installment and penalty assessed under section 3721.54 of the Revised Code from a medicaid payment due the nursing facility or hospital until the nursing facility or hospital pays the installment and penalty; 41579
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(2) Terminate the nursing facility or hospital's medicaid provider agreement. 41583
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(B) The department may withhold a medicaid payment under division (A)(1) of this section without providing notice to the nursing facility or hospital and without conducting an adjudication under Chapter 119. of the Revised Code. 41585
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Sec. 3721.56. ~~(A) Thirty and three tenths~~ There is hereby 41589
created in the state treasury the home- and community-based 41590
services for the aged fund. Sixteen per cent of all payments and 41591
penalties paid by nursing homes and hospitals under sections 41592
3721.53 and 3721.54 of the Revised Code for fiscal ~~year 2002,~~ 41593
~~twenty three and twenty six hundredths~~ per cent of such payments 41594
~~and penalties paid for fiscal years 2003 through 2005~~ 2006 and 41595
2007, and all such payments and penalties paid for subsequent 41596
fiscal years, shall be deposited into the ~~"home and~~ 41597
~~community based services for the aged fund,"~~ which is hereby 41598
~~created in the state treasury.~~ The departments of job and family 41599
services and aging shall use the moneys in the fund to fund the 41600
following in accordance with rules adopted under section 3721.58 41601
of the Revised Code: 41602

~~(1)(A)~~ The medical assistance medicaid program established 41603
under Chapter 5111. of the Revised Code; 41604

~~(2)~~ The, including the PASSPORT program established under 41605
section 173.40 of the Revised Code; 41606

~~(3)(B)~~ The residential state supplement program established 41607
under section 173.35 of the Revised Code. 41608

~~(B) Sixty nine and seven tenths per cent of all payments and penalties paid by nursing homes and hospitals under sections 3721.53 and 3721.54 of the Revised Code for fiscal year 2002, and seventy six and seventy four hundredths per cent of such payments and penalties paid for fiscal years 2003 through 2005, shall be deposited into the nursing facility stabilization fund, which is hereby created in the state treasury. The department of job and family services shall use the money in the fund in the manner provided by Am. Sub. H.B. 94 and Am. Sub. S.B. 261 of the 124th general assembly.~~

Sec. 3721.561. (A) There is hereby created in the state treasury the nursing facility stabilization fund. All payments and penalties paid by nursing homes and hospitals under sections 3721.53 and 3721.54 of the Revised Code that are not deposited into the home and community-based services for the aged fund shall be deposited into the fund. The department of job and family services shall use the money in the fund to make medicaid payments to nursing facilities.

(B) Any money remaining in the nursing facility stabilization fund after payments specified in division (A) of this section are made shall be retained in the fund. Any interest or other investment proceeds earned on money in the fund shall be credited to the fund and used to make medicaid payments in accordance with division (A) of this section.

Sec. 3721.58. The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to do ~~both~~ all of the following:

(A) Prescribe the actions the department of job and family services will take to cease implementation of sections 3721.50 through 3721.57 of the Revised Code if the United States health

~~care financing administration~~ centers for medicare and medicaid 41639
services determines that the franchise permit fee established by 41640
those sections is an impermissible health-care related tax under 41641
section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 41642
42 U.S.C. ~~1396(b)(w)~~ 1396b(w), as amended; 41643

(B) Establish the method of distributing moneys in the home 41644
and community-based services for the aged fund created under 41645
section 3721.56 of the Revised Code; 41646

(C) Establish any requirements or procedures the director 41647
considers necessary to implement sections 3721.50 to 3721.58 of 41648
the Revised Code. 41649

Sec. 3722.01. (A) As used in this chapter: 41650

(1) "Owner" means the person who owns the business of and who 41651
ultimately controls the operation of an adult care facility and to 41652
whom the manager, if different from the owner, is responsible. 41653

(2) "Manager" means the person responsible for the daily 41654
operation of an adult care facility. The manager and the owner of 41655
a facility may be the same person. 41656

(3) "Adult" means an individual eighteen years of age or 41657
older. 41658

(4) "Unrelated" means that an adult resident is not related 41659
to the owner or manager of an adult care facility or to the 41660
owner's or manager's spouse as a parent, grandparent, child, 41661
stepchild, grandchild, brother, sister, niece, nephew, aunt, or 41662
uncle, or as the child of an aunt or uncle. 41663

(5) "Skilled nursing care" means skilled nursing care as 41664
defined in section 3721.01 of the Revised Code. 41665

(6)(a) "Personal care services" means services including, but 41666
not limited to, the following: 41667

(i) Assisting residents with activities of daily living;	41668
(ii) Assisting residents with self-administration of medication, in accordance with rules adopted by the public health council pursuant to this chapter;	41669 41670 41671
(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted by the public health council pursuant to this chapter.	41672 41673 41674 41675
(b) "Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(6)(a) of this section to be considered to be providing personal care services.	41676 41677 41678 41679 41680
(7) "Adult family home" means a residence or facility that provides accommodations to three to five unrelated adults and supervision and personal care services to at least three of those adults.	41681 41682 41683 41684
(8) "Adult group home" means a residence or facility that provides accommodations to six to sixteen unrelated adults and provides supervision and personal care services to at least three of the unrelated adults.	41685 41686 41687 41688
(9) "Adult care facility" means an adult family home or an adult group home. For the purposes of this chapter, any residence, facility, institution, hotel, congregate housing project, or similar facility that provides accommodations and supervision to three to sixteen unrelated adults, at least three of whom are provided personal care services, is an adult care facility regardless of how the facility holds itself out to the public. "Adult care facility" does not include:	41689 41690 41691 41692 41693 41694 41695 41696
(a) A facility operated by a hospice care program licensed	41697

under section 3712.04 of the Revised Code that is used exclusively	41698
for care of hospice patients;	41699
(b) A nursing home, residential care facility, or home for	41700
the aging as defined in section 3721.01 of the Revised Code;	41701
(c) A community alternative home as defined in section	41702
3724.01 of the Revised Code;	41703
(d) An alcohol and drug addiction program as defined in	41704
section 3793.01 of the Revised Code;	41705
(e) A habilitation center as defined in section 5123.041 of	41706
the Revised Code;	41707
(f) A residential facility for the mentally ill licensed by	41708
the department of mental health under section 5119.22 of the	41709
Revised Code;	41710
(g) <u>(f)</u> A facility licensed to provide methadone treatment	41711
under section 3793.11 of the Revised Code;	41712
(h) <u>(g)</u> A residential facility licensed under section 5123.19	41713
of the Revised Code or otherwise regulated by the department of	41714
mental retardation and developmental disabilities;	41715
(i) <u>(h)</u> Any residence, institution, hotel, congregate housing	41716
project, or similar facility that provides personal care services	41717
to fewer than three residents or that provides, for any number of	41718
residents, only housing, housekeeping, laundry, meal preparation,	41719
social or recreational activities, maintenance, security,	41720
transportation, and similar services that are not personal care	41721
services or skilled nursing care;	41722
(j) <u>(i)</u> Any facility that receives funding for operating costs	41723
from the department of development under any program established	41724
to provide emergency shelter housing or transitional housing for	41725
the homeless;	41726
(k) <u>(j)</u> A terminal care facility for the homeless that has	41727

entered into an agreement with a hospice care program under 41728
section 3712.07 of the Revised Code; 41729

~~(l)~~(k) A facility approved by the veterans administration 41730
under section 104(a) of the "Veterans Health Care Amendments of 41731
1983," 97 Stat. 993, 38 U.S.C.A. 630, as amended, and used 41732
exclusively for the placement and care of veterans; 41733

~~(m)~~(l) Until January 1, 1994, the portion of a facility in 41734
which care is provided exclusively to members of a religious order 41735
if the facility is owned by or part of a nonprofit institution of 41736
higher education authorized to award degrees by the Ohio board of 41737
regents under Chapter 1713. of the Revised Code. 41738

(10) "Residents' rights advocate" means: 41739

(a) An employee or representative of any state or local 41740
government entity that has a responsibility for residents of adult 41741
care facilities and has registered with the department of health 41742
under section 3701.07 of the Revised Code; 41743

(b) An employee or representative, other than a manager or 41744
employee of an adult care facility or nursing home, of any private 41745
nonprofit corporation or association that qualifies for tax-exempt 41746
status under section 501(a) of the "Internal Revenue Code of 41747
1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has 41748
registered with the department of health under section 3701.07 of 41749
the Revised Code, and whose purposes include educating and 41750
counseling residents, assisting residents in resolving problems 41751
and complaints concerning their care and treatment, and assisting 41752
them in securing adequate services. 41753

(11) "Sponsor" means an adult relative, friend, or guardian 41754
of a resident of an adult care facility who has an interest in or 41755
responsibility for the resident's welfare. 41756

(12) "Ombudsperson" means a "representative of the office of 41757
the state long-term care ombudsperson program" as defined in 41758

section 173.14 of the Revised Code. 41759

(13) "Mental health agency" means a community mental health 41760
agency, as defined in section 5119.22 of the Revised Code, under 41761
contract with a board of alcohol, drug addiction, and mental 41762
health services pursuant to division (A)(8)(a) of section 340.03 41763
of the Revised Code. 41764

(B) For purposes of this chapter, personal care services or 41765
skilled nursing care shall be considered to be provided by a 41766
facility if they are provided by a person employed by or 41767
associated with the facility or by another person pursuant to an 41768
agreement to which neither the resident who receives the services 41769
nor the resident's sponsor is a party. 41770

(C) Nothing in division (A)(6) of this section shall be 41771
construed to permit personal care services to be imposed upon a 41772
resident who is capable of performing the activity in question 41773
without assistance. 41774

Sec. 3722.02. A person seeking a license to operate an adult 41775
care facility shall submit to the director of health an 41776
application on a form prescribed by the director and the 41777
following: 41778

(A) In the case of an adult group home seeking licensure as 41779
an adult care facility, evidence that the home has been inspected 41780
and approved by a local certified building department or by the 41781
division of industrial compliance in the department of commerce as 41782
meeting the applicable requirements of sections 3781.06 to 3781.18 41783
and 3791.04 of the Revised Code and any rules adopted under those 41784
sections and evidence that the home has been inspected by the 41785
state fire marshal or fire prevention officer of a municipal, 41786
township, or other legally constituted fire department approved by 41787
the state fire marshal and found to be in compliance with rules 41788

adopted under section 3737.83 of the Revised Code regarding fire prevention and safety in adult group homes;	41789 41790
(B) Valid approvals of the facility's water and sewage systems issued by the responsible governmental entity, if applicable;	41791 41792 41793
(C) A statement of ownership containing the following information:	41794 41795
(1) If the owner is an individual, the owner's name, address, telephone number, business address, business telephone number, and occupation. If the owner is an association, corporation, or partnership, the business activity, address, and telephone number of the entity and the name of every person who has an ownership interest of five per cent or more in the entity.	41796 41797 41798 41799 41800 41801
(2) If the owner does not own the building or if the owner owns only part of the building in which the facility is housed, the name of each person who has an ownership interest of five per cent or more in the building;	41802 41803 41804 41805
(3) The address of any adult care facility and any facility described in divisions (A)(9)(a) to (i) (h) of section 3722.01 of the Revised Code in which the owner has an ownership interest of five per cent or more;	41806 41807 41808 41809
(4) The identity of the manager of the adult care facility, if different from the owner;	41810 41811
(5) The name and address of any adult care facility and any facility described in divisions (A)(9)(a) to (i) (h) of section 3722.01 of the Revised Code with which either the owner or manager has been affiliated through ownership or employment in the five years prior to the date of the application;	41812 41813 41814 41815 41816
(6) The names and addresses of three persons not employed by or associated in business with the owner who will provide	41817 41818

information about the character, reputation, and competence of the owner and the manager and the financial responsibility of the owner;

(7) Information about any arrest of the owner or manager for, or adjudication or conviction of, a criminal offense related to the provision of care in an adult care facility or any facility described in divisions (A)(9)(a) to ~~(i)~~(h) of section 3722.01 of the Revised Code or the ability to operate a facility;

(8) Any other information the director may require regarding the owner's ability to operate the facility.

(D) If the facility is an adult group home, a balance sheet showing the assets and liabilities of the owner and a statement projecting revenues and expenses for the first twelve months of the facility's operation;

(E) Proof of insurance in an amount and type determined in rules adopted by the public health council pursuant to this chapter to be adequate;

(F) A nonrefundable license application fee in an amount established in rules adopted by the public health council pursuant to this chapter.

Sec. 3722.04. (A)(1) The director of health shall inspect, license, and regulate adult care facilities. Except as otherwise provided in division (D) of this section, the director shall issue a license to an adult care facility that meets the requirements of section 3722.02 of the Revised Code and that the director determines to be in substantial compliance with the rules adopted by the public health council pursuant to this chapter. The director shall consider the past record of the owner and manager and any individuals who are principal participants in an entity that is the owner or manager in operating facilities providing

care to adults. The director may, in accordance with Chapter 119. 41849
of the Revised Code, deny a license if the past record indicates 41850
that the owner or manager is not suitable to own or manage an 41851
adult care facility. 41852

The license shall contain the name and address of the 41853
facility for which it was issued, the date of expiration of the 41854
license, and the maximum number of residents that may be 41855
accommodated by the facility. A license for an adult care facility 41856
shall be valid for a period of two years after the date of 41857
issuance. No single facility may be licensed to operate as more 41858
than one adult care facility. 41859

(2) Notwithstanding division (A)(1) of this section and 41860
sections 3722.02 and 3722.041 of the Revised Code, the director 41861
may issue a temporary license if the requirements of divisions 41862
(C), (D), and (F) of section 3722.02 of the Revised Code have been 41863
met. A temporary license shall be valid for a period of ninety 41864
days and, except as otherwise provided in division (A)(3) of 41865
section 3722.05 of the Revised Code, may be renewed, without 41866
payment of an additional application fee, for an additional ninety 41867
days. 41868

(B) The director shall renew a license for a two-year period 41869
if the facility continues to be in compliance with the 41870
requirements of this chapter and in substantial compliance with 41871
the rules adopted under this chapter. The owner shall submit a 41872
nonrefundable license renewal application fee in an amount 41873
established in rules adopted by the public health council pursuant 41874
to this chapter. Before the license of an adult group home is 41875
renewed, if any alterations have been made to the buildings, a 41876
certificate of occupancy for the facility shall have been issued 41877
by the division of industrial compliance in the department of 41878
commerce or a local certified building department. The facility 41879
shall have water and sewage system approvals, if required by law, 41880

and, in the case of an adult group home, documentation of 41881
continued compliance with the rules adopted by the state fire 41882
marshal under division (F) of section 3737.83 of the Revised Code. 41883

(C) The director shall make at least one unannounced 41884
inspection of an adult care facility during each licensure period 41885
in addition to inspecting the facility to determine whether a 41886
license should be issued or renewed, and may make additional 41887
unannounced inspections as the director considers necessary. Other 41888
inspections may be made at any time that the director considers 41889
appropriate. The director shall take all reasonable actions to 41890
avoid giving notice of an inspection by the manner in which the 41891
inspection is scheduled or performed. Not later than sixty days 41892
after the date of an inspection of a facility, the director shall 41893
send a report of the inspection to the ombudsperson in whose 41894
region the facility is located. The state fire marshal or fire 41895
prevention officer of a municipal, township, or other legally 41896
constituted fire department approved by the state fire marshal 41897
shall inspect an adult group home seeking a license or renewal 41898
under this chapter as an adult care facility prior to issuance of 41899
a license or renewal, at least once annually thereafter, and at 41900
any other time at the request of the director, to determine 41901
compliance with the rules adopted under division (F) of section 41902
3737.83 of the Revised Code. 41903

(D) The director may waive any of the licensing requirements 41904
having to do with fire and safety requirements or building 41905
standards established by rule adopted by the public health council 41906
pursuant to this chapter upon written request of the facility. The 41907
director may grant a waiver if the director determines that the 41908
strict application of the licensing requirement would cause undue 41909
hardship to the facility and that granting the waiver would not 41910
jeopardize the health or safety of any resident. The director may 41911
provide a facility with an informal hearing concerning the denial 41912

of a waiver request, but the facility shall not be entitled to a 41913
hearing under Chapter 119. of the Revised Code unless the director 41914
takes an action that requires a hearing to be held under section 41915
3722.05 of the Revised Code. 41916

(E)(1) Not later than thirty days after ~~the issuance or~~ 41917
~~renewal of the license, other than a temporary license, of an~~ 41918
~~adult care facility under this section~~ each of the following, the 41919
owner of an adult care facility shall submit an inspection fee of 41920
~~ten~~ twenty dollars for each bed for which the facility is 41921
licensed: 41922

(a) Issuance or renewal of a license, other than a temporary 41923
license; 41924

(b) The unannounced inspection required by division (C) of 41925
this section; 41926

(c) If, during an inspection conducted in addition to the two 41927
inspections required by division (C) of this section, the facility 41928
was found to be in violation of this chapter or the rules adopted 41929
under it, receipt by the facility of the report of that 41930
investigation. The 41931

(2) The director may revoke the license of any adult care 41932
facility that fails to submit the fee within the thirty-day 41933
period. ~~All~~ 41934

(3) All inspection fees received by the director, all civil 41935
penalties assessed under section 3722.08 of the Revised Code, all 41936
fines imposed under section 3722.99 of the Revised Code, and all 41937
license application and renewal application fees received under 41938
division (F) of section 3722.02 of the Revised Code or under 41939
division (B) of this section shall be deposited into the general 41940
operations fund created in section 3701.83 of the Revised Code and 41941
shall be used only to pay the costs of administering and enforcing 41942
the requirements of this chapter and rules adopted under it. 41943

(F)(1) An owner shall inform the director in writing of any 41944
changes in the information contained in the statement of ownership 41945
made pursuant to division (C) of section 3722.02 of the Revised 41946
Code or in the identity of the manager, not later than ten days 41947
after the change occurs. 41948

(2) An owner who sells or transfers an adult care facility 41949
shall be responsible and liable for the following: 41950

(a) Any civil penalties imposed against the facility under 41951
section 3722.08 of the Revised Code for violations that occur 41952
before the date of transfer of ownership or during any period in 41953
which the seller or the seller's agent operates the facility; 41954

(b) Any outstanding liability to the state, unless the buyer 41955
or transferee has agreed, as a condition of the sale or transfer, 41956
to accept the outstanding liabilities and to guarantee their 41957
payment, except that if the buyer or transferee fails to meet 41958
these obligations the seller or transferor shall remain 41959
responsible for the outstanding liability. 41960

(G) The director shall annually publish a list of licensed 41961
adult care facilities, facilities whose licenses have been revoked 41962
or not renewed, any facilities under an order suspending 41963
admissions pursuant to section 3722.07 of the Revised Code, and 41964
any facilities that have been assessed a civil penalty pursuant to 41965
section 3722.08 of the Revised Code. The director shall furnish 41966
information concerning the status of licensure of any facility to 41967
any person upon request. The director shall annually send a copy 41968
of the list to the department of job and family services, to the 41969
department of mental health, and to the department of aging. 41970

Sec. 3734.01. As used in this chapter: 41971

(A) "Board of health" means the board of health of a city or 41972
general health district or the authority having the duties of a 41973

board of health in any city as authorized by section 3709.05 of the Revised Code. 41974
41975

(B) "Director" means the director of environmental protection. 41976
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(C) "Health district" means a city or general health district as created by or under authority of Chapter 3709. of the Revised Code. 41978
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(D) "Agency" means the environmental protection agency. 41981

(E) "Solid wastes" means such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste materials of the type that normally would be included in demolition debris, nontoxic fly ash and bottom ash, including at least ash that results from the combustion of coal and ash that results from the combustion of coal in combination with scrap tires where scrap tires comprise not more than fifty per cent of heat input in any month, spent nontoxic foundry sand, nontoxic, nonhazardous, unwanted fired and unfired, glazed and unglazed, structural shale and clay products, and slag and other substances that are not harmful or inimical to public health, and includes, but is not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt, and debris. "Solid wastes" does not include any either of the following: 41982
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(1) Any material that is an infectious waste or a hazardous waste; 41998
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(2) Spent petroleum refinery hydrotreating, hydrorefining, and hydrocracking catalysts that are used to produce ferrovanadium, iron nickel molybdenum, and calcium aluminate alloys for the steel, iron, and nickel industries unless the catalysts are disposed of at a solid waste facility licensed under 42000
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this chapter or are accumulated speculatively. 42005

(F) "Disposal" means the discharge, deposit, injection, 42006
dumping, spilling, leaking, emitting, or placing of any solid 42007
wastes or hazardous waste into or on any land or ground or surface 42008
water or into the air, except if the disposition or placement 42009
constitutes storage or treatment or, if the solid wastes consist 42010
of scrap tires, the disposition or placement constitutes a 42011
beneficial use or occurs at a scrap tire recovery facility 42012
licensed under section 3734.81 of the Revised Code. 42013

(G) "Person" includes the state, any political subdivision 42014
and other state or local body, the United States and any agency or 42015
instrumentality thereof, and any legal entity defined as a person 42016
under section 1.59 of the Revised Code. 42017

(H) "Open burning" means the burning of solid wastes in an 42018
open area or burning of solid wastes in a type of chamber or 42019
vessel that is not approved or authorized in rules adopted by the 42020
director under section 3734.02 of the Revised Code or, if the 42021
solid wastes consist of scrap tires, in rules adopted under 42022
division (V) of this section or section 3734.73 of the Revised 42023
Code, or the burning of treated or untreated infectious wastes in 42024
an open area or in a type of chamber or vessel that is not 42025
approved in rules adopted by the director under section 3734.021 42026
of the Revised Code. 42027

(I) "Open dumping" means the depositing of solid wastes into 42028
a body or stream of water or onto the surface of the ground at a 42029
site that is not licensed as a solid waste facility under section 42030
3734.05 of the Revised Code or, if the solid wastes consist of 42031
scrap tires, as a scrap tire collection, storage, monocell, 42032
monofill, or recovery facility under section 3734.81 of the 42033
Revised Code; the depositing of solid wastes that consist of scrap 42034
tires onto the surface of the ground at a site or in a manner not 42035

specifically identified in divisions (C)(2) to (5), (7), or (10) 42036
of section 3734.85 of the Revised Code; the depositing of 42037
untreated infectious wastes into a body or stream of water or onto 42038
the surface of the ground; or the depositing of treated infectious 42039
wastes into a body or stream of water or onto the surface of the 42040
ground at a site that is not licensed as a solid waste facility 42041
under section 3734.05 of the Revised Code. 42042

(J) "Hazardous waste" means any waste or combination of 42043
wastes in solid, liquid, semisolid, or contained gaseous form that 42044
in the determination of the director, because of its quantity, 42045
concentration, or physical or chemical characteristics, may do 42046
either of the following: 42047

(1) Cause or significantly contribute to an increase in 42048
mortality or an increase in serious irreversible or incapacitating 42049
reversible illness; 42050

(2) Pose a substantial present or potential hazard to human 42051
health or safety or to the environment when improperly stored, 42052
treated, transported, disposed of, or otherwise managed. 42053

"Hazardous waste" includes any substance identified by 42054
regulation as hazardous waste under the "Resource Conservation and 42055
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 42056
amended, and does not include any substance that is subject to the 42057
"Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as 42058
amended. 42059

(K) "Treat" or "treatment," when used in connection with 42060
hazardous waste, means any method, technique, or process designed 42061
to change the physical, chemical, or biological characteristics or 42062
composition of any hazardous waste; to neutralize the waste; to 42063
recover energy or material resources from the waste; to render the 42064
waste nonhazardous or less hazardous, safer to transport, store, 42065
or dispose of, or amenable for recovery, storage, further 42066

treatment, or disposal; or to reduce the volume of the waste. When 42067
used in connection with infectious wastes, "treat" or "treatment" 42068
means any method, technique, or process designed to render the 42069
wastes noninfectious, including, without limitation, steam 42070
sterilization and incineration, or, in the instance of wastes 42071
identified in division (R)(7) of this section, to substantially 42072
reduce or eliminate the potential for the wastes to cause 42073
lacerations or puncture wounds. 42074

(L) "Manifest" means the form used for identifying the 42075
quantity, composition, origin, routing, and destination of 42076
hazardous waste during its transportation from the point of 42077
generation to the point of disposal, treatment, or storage. 42078

(M) "Storage," when used in connection with hazardous waste, 42079
means the holding of hazardous waste for a temporary period in 42080
such a manner that it remains retrievable and substantially 42081
unchanged physically and chemically and, at the end of the period, 42082
is treated; disposed of; stored elsewhere; or reused, recycled, or 42083
reclaimed in a beneficial manner. When used in connection with 42084
solid wastes that consist of scrap tires, "storage" means the 42085
holding of scrap tires for a temporary period in such a manner 42086
that they remain retrievable and, at the end of that period, are 42087
beneficially used; stored elsewhere; placed in a scrap tire 42088
monocell or monofill facility licensed under section 3734.81 of 42089
the Revised Code; processed at a scrap tire recovery facility 42090
licensed under that section or a solid waste incineration or 42091
energy recovery facility subject to regulation under this chapter; 42092
or transported to a scrap tire monocell, monofill, or recovery 42093
facility, any other solid waste facility authorized to dispose of 42094
scrap tires, or a facility that will beneficially use the scrap 42095
tires, that is located in another state and is operating in 42096
compliance with the laws of the state in which the facility is 42097
located. 42098

(N) "Facility" means any site, location, tract of land, 42099
installation, or building used for incineration, composting, 42100
sanitary landfilling, or other methods of disposal of solid wastes 42101
or, if the solid wastes consist of scrap tires, for the 42102
collection, storage, or processing of the solid wastes; for the 42103
transfer of solid wastes; for the treatment of infectious wastes; 42104
or for the storage, treatment, or disposal of hazardous waste. 42105

(O) "Closure" means the time at which a hazardous waste 42106
facility will no longer accept hazardous waste for treatment, 42107
storage, or disposal, the time at which a solid waste facility 42108
will no longer accept solid wastes for transfer or disposal or, if 42109
the solid wastes consist of scrap tires, for storage or 42110
processing, or the effective date of an order revoking the permit 42111
for a hazardous waste facility or the registration certificate, 42112
permit, or license for a solid waste facility, as applicable. 42113
"Closure" includes measures performed to protect public health or 42114
safety, to prevent air or water pollution, or to make the facility 42115
suitable for other uses, if any, including, but not limited to, 42116
the removal of processing residues resulting from solid wastes 42117
that consist of scrap tires; the establishment and maintenance of 42118
a suitable cover of soil and vegetation over cells in which 42119
hazardous waste or solid wastes are buried; minimization of 42120
erosion, the infiltration of surface water into such cells, the 42121
production of leachate, and the accumulation and runoff of 42122
contaminated surface water; the final construction of facilities 42123
for the collection and treatment of leachate and contaminated 42124
surface water runoff, except as otherwise provided in this 42125
division; the final construction of air and water quality 42126
monitoring facilities, except as otherwise provided in this 42127
division; the final construction of methane gas extraction and 42128
treatment systems; or the removal and proper disposal of hazardous 42129
waste or solid wastes from a facility when necessary to protect 42130

public health or safety or to abate or prevent air or water
pollution. With regard to a solid waste facility that is a scrap
tire facility, "closure" includes the final construction of
facilities for the collection and treatment of leachate and
contaminated surface water runoff and the final construction of
air and water quality monitoring facilities only if those actions
are determined to be necessary.

(P) "Premises" means either of the following:

(1) Geographically contiguous property owned by a generator;

(2) Noncontiguous property that is owned by a generator and
connected by a right-of-way that the generator controls and to
which the public does not have access. Two or more pieces of
property that are geographically contiguous and divided by public
or private right-of-way or rights-of-way are a single premises.

(Q) "Post-closure" means that period of time following
closure during which a hazardous waste facility is required to be
monitored and maintained under this chapter and rules adopted
under it, including, without limitation, operation and maintenance
of methane gas extraction and treatment systems, or the period of
time after closure during which a scrap tire monocell or monofill
facility licensed under section 3734.81 of the Revised Code is
required to be monitored and maintained under this chapter and
rules adopted under it.

(R) "Infectious wastes" includes all of the following
substances or categories of substances:

(1) Cultures and stocks of infectious agents and associated
biologicals, including, without limitation, specimen cultures,
cultures and stocks of infectious agents, wastes from production
of biologicals, and discarded live and attenuated vaccines;

(2) Laboratory wastes that were, or are likely to have been,

in contact with infectious agents that may present a substantial
threat to public health if improperly managed;

(3) Pathological wastes, including, without limitation, human
and animal tissues, organs, and body parts, and body fluids and
excreta that are contaminated with or are likely to be
contaminated with infectious agents, removed or obtained during
surgery or autopsy or for diagnostic evaluation, provided that,
with regard to pathological wastes from animals, the animals have
or are likely to have been exposed to a zoonotic or infectious
agent;

(4) Waste materials from the rooms of humans, or the
enclosures of animals, that have been isolated because of
diagnosed communicable disease that are likely to transmit
infectious agents. Such waste materials from the rooms of humans
do not include any wastes of patients who have been placed on
blood and body fluid precautions under the universal precaution
system established by the centers for disease control in the
public health service of the United States department of health
and human services, except to the extent specific wastes generated
under the universal precautions system have been identified as
infectious wastes by rules adopted under division (R)(8) of this
section.

(5) Human and animal blood specimens and blood products that
are being disposed of, provided that, with regard to blood
specimens and blood products from animals, the animals were or are
likely to have been exposed to a zoonotic or infectious agent.
"Blood products" does not include patient care waste such as
bandages or disposable gowns that are lightly soiled with blood or
other body fluids unless those wastes are soiled to the extent
that the generator of the wastes determines that they should be
managed as infectious wastes.

(6) Contaminated carcasses, body parts, and bedding of animals that were intentionally exposed to infectious agents from zoonotic or human diseases during research, production of biologicals, or testing of pharmaceuticals, and carcasses and bedding of animals otherwise infected by zoonotic or infectious agents that may present a substantial threat to public health if improperly managed;

(7) Sharp wastes used in the treatment, diagnosis, or inoculation of human beings or animals or that have, or are likely to have, come in contact with infectious agents in medical, research, or industrial laboratories, including, without limitation, hypodermic needles and syringes, scalpel blades, and glass articles that have been broken;

(8) Any other waste materials generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, that the public health council created in section 3701.33 of the Revised Code, by rules adopted in accordance with Chapter 119. of the Revised Code, identifies as infectious wastes after determining that the wastes present a substantial threat to human health when improperly managed because they are contaminated with, or are likely to be contaminated with, infectious agents.

(S) "Infectious agent" means a type of microorganism, helminth, or virus that causes, or significantly contributes to the cause of, increased morbidity or mortality of human beings.

(T) "Zoonotic agent" means a type of microorganism, helminth, or virus that causes disease in vertebrate animals and that is transmissible to human beings and causes or significantly contributes to the cause of increased morbidity or mortality of human beings.

(U) "Solid waste transfer facility" means any site, location,

tract of land, installation, or building that is used or intended 42223
to be used primarily for the purpose of transferring solid wastes 42224
that were generated off the premises of the facility from vehicles 42225
or containers into other vehicles for transportation to a solid 42226
waste disposal facility. "Solid waste transfer facility" does not 42227
include any facility that consists solely of portable containers 42228
that have an aggregate volume of fifty cubic yards or less nor any 42229
facility where legitimate recycling activities are conducted. 42230

(V) "Beneficially use" means to use a scrap tire in a manner 42231
that results in a commodity for sale or exchange or in any other 42232
manner authorized as a beneficial use in rules adopted by the 42233
director in accordance with Chapter 119. of the Revised Code. 42234

(W) "Commercial car," "commercial tractor," "farm machinery," 42235
"motor bus," "vehicles," "motor vehicle," and "semitrailer" have 42236
the same meanings as in section 4501.01 of the Revised Code. 42237

(X) "Construction equipment" means road rollers, traction 42238
engines, power shovels, power cranes, and other equipment used in 42239
construction work, or in mining or producing or processing 42240
aggregates, and not designed for or used in general highway 42241
transportation. 42242

(Y) "Motor vehicle salvage dealer" has the same meaning as in 42243
section 4738.01 of the Revised Code. 42244

(Z) "Scrap tire" means an unwanted or discarded tire. 42245

(AA) "Scrap tire collection facility" means any facility that 42246
meets all of the following qualifications: 42247

(1) The facility is used for the receipt and storage of whole 42248
scrap tires from the public prior to their transportation to a 42249
scrap tire storage, monocell, monofill, or recovery facility 42250
licensed under section 3734.81 of the Revised Code; a solid waste 42251
incineration or energy recovery facility subject to regulation 42252

under this chapter; a premises within the state where the scrap 42253
tires will be beneficially used; or a scrap tire storage, 42254
monocell, monofill, or recovery facility, any other solid waste 42255
disposal facility authorized to dispose of scrap tires, or a 42256
facility that will beneficially use the scrap tires, that is 42257
located in another state, and that is operating in compliance with 42258
the laws of the state in which the facility is located+.

(2) The facility exclusively stores scrap tires in portable 42260
containers+.

(3) The aggregate storage of the portable containers in which 42262
the scrap tires are stored does not exceed five thousand cubic 42263
feet. 42264

(BB) "Scrap tire monocell facility" means an individual site 42265
within a solid waste landfill that is used exclusively for the 42266
environmentally sound storage or disposal of whole scrap tires or 42267
scrap tires that have been shredded, chipped, or otherwise 42268
mechanically processed. 42269

(CC) "Scrap tire monofill facility" means an engineered 42270
facility used or intended to be used exclusively for the storage 42271
or disposal of scrap tires, including at least facilities for the 42272
submergence of whole scrap tires in a body of water. 42273

(DD) "Scrap tire recovery facility" means any facility, or 42274
portion thereof, for the processing of scrap tires for the purpose 42275
of extracting or producing usable products, materials, or energy 42276
from the scrap tires through a controlled combustion process, 42277
mechanical process, or chemical process. "Scrap tire recovery 42278
facility" includes any facility that uses the controlled 42279
combustion of scrap tires in a manufacturing process to produce 42280
process heat or steam or any facility that produces usable heat or 42281
electric power through the controlled combustion of scrap tires in 42282
combination with another fuel, but does not include any solid 42283

waste incineration or energy recovery facility that is designed, 42284
constructed, and used for the primary purpose of incinerating 42285
mixed municipal solid wastes and that burns scrap tires in 42286
conjunction with mixed municipal solid wastes, or any tire 42287
retreading business, tire manufacturing finishing center, or tire 42288
adjustment center having on the premises of the business a single, 42289
covered scrap tire storage area at which not more than four 42290
thousand scrap tires are stored. 42291

(EE) "Scrap tire storage facility" means any facility where 42292
whole scrap tires are stored prior to their transportation to a 42293
scrap tire monocell, monofill, or recovery facility licensed under 42294
section 3734.81 of the Revised Code; a solid waste incineration or 42295
energy recovery facility subject to regulation under this chapter; 42296
a premises within the state where the scrap tires will be 42297
beneficially used; or a scrap tire storage, monocell, monofill, or 42298
recovery facility, any other solid waste disposal facility 42299
authorized to dispose of scrap tires, or a facility that will 42300
beneficially use the scrap tires, that is located in another 42301
state, and that is operating in compliance with the laws of the 42302
state in which the facility is located. 42303

(FF) "Used oil" means any oil that has been refined from 42304
crude oil, or any synthetic oil, that has been used and, as a 42305
result of that use, is contaminated by physical or chemical 42306
impurities. "Used oil" includes only those substances identified 42307
as used oil by the United States environmental protection agency 42308
under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 42309
U.S.C.A. 6901a, as amended. 42310

(GG) "Accumulated speculatively" has the same meaning as in 42311
rules adopted by the director under section 3734.12 of the Revised 42312
Code. 42313

Sec. 3734.20. (A) If the director of environmental protection 42314

has reason to believe that hazardous waste was treated, stored, or 42315
disposed of at any location within the state, ~~he~~ the director may 42316
conduct such investigations and make such inquiries, including 42317
obtaining samples and examining and copying records, as are 42318
reasonable or necessary to determine if conditions at a hazardous 42319
waste facility, solid waste facility, or other location where the 42320
director has reason to believe hazardous waste was treated, 42321
stored, or disposed of constitute a substantial threat to public 42322
health or safety or are causing or contributing to or threatening 42323
to cause or contribute to air or water pollution or soil 42324
contamination. The director or the director's authorized 42325
representative may apply for, and any judge of a court of common 42326
pleas shall issue, an appropriate search warrant necessary to 42327
achieve the purposes of this section within the court's 42328
territorial jurisdiction. The director may expend moneys from the 42329
hazardous waste clean-up fund created in section 3734.28 of the 42330
Revised Code or the environmental protection remediation fund 42331
created in section 3734.281 of the Revised Code for conducting 42332
investigations under this section. 42333

(B) If the director determines that conditions at a hazardous 42334
waste facility, solid waste facility, or other location where 42335
hazardous waste was treated, stored, or disposed of constitute a 42336
substantial threat to public health or safety or are causing or 42337
contributing to or threatening to cause or contribute to air or 42338
water pollution or soil contamination, the director shall initiate 42339
appropriate action under this chapter or Chapter 3704. or 6111. of 42340
the Revised Code or seek any other appropriate legal or equitable 42341
remedies to abate the pollution or contamination or to protect 42342
public health or safety. 42343

If an order of the director to abate or prevent air or water 42344
pollution or soil contamination or to remedy a threat to public 42345
health or safety caused by conditions at such a facility issued 42346

pursuant to this chapter or Chapter 3704. or 6111. of the Revised 42347
Code is not wholly complied with within the time prescribed in the 42348
order, the director may, through officers or employees of the 42349
environmental protection agency or through contractors employed 42350
for that purpose in accordance with the bidding procedure 42351
established in division (C) of section 3734.23 of the Revised 42352
Code, enter upon the facility and perform those measures necessary 42353
to abate or prevent air or water pollution or soil contamination 42354
from the facility or to protect public health or safety, 42355
including, but not limited to, measures prescribed in division (B) 42356
of section 3734.23 of the Revised Code. The director shall keep an 42357
itemized record of the cost of the investigation and measures 42358
performed, including costs for labor, materials, and any contract 42359
services required. Upon completion of the investigation or 42360
measures, the director shall record the cost of performing those 42361
measures at the office of the county recorder of the county in 42362
which the facility is located. The cost so recorded constitutes a 42363
lien against the property on which the facility is located until 42364
discharged. Upon written request of the director, the attorney 42365
general shall institute a civil action to recover the cost. Any 42366
moneys so received shall be credited to the hazardous waste 42367
clean-up fund ~~created in section 3734.28 of the Revised Code or~~ 42368
the environmental protection remediation fund, as applicable. 42369

When entering upon a facility under this division, the 42370
director shall perform or cause to be performed only those 42371
measures necessary to abate or prevent air or water pollution or 42372
soil contamination caused by conditions at the facility or to 42373
abate threats to public health or safety caused by conditions at 42374
the facility. For this purpose the director may expend moneys from 42375
~~the~~ either fund and may expend moneys from loans from the Ohio 42376
water development authority to the environmental protection agency 42377
that pledge moneys from ~~the~~ either fund for the repayment of and 42378

for the interest on such loans. 42379

Sec. 3734.21. (A) The director of environmental protection 42380
may expend moneys credited to the hazardous waste clean-up fund 42381
created in section 3734.28 of the Revised Code or the 42382
environmental protection remediation fund created in section 42383
3734.281 of the Revised Code for the payment of the cost of 42384
measures necessary for the proper closure of hazardous waste 42385
facilities or any solid waste facilities containing significant 42386
quantities of hazardous waste, for the payment of costs of the 42387
development and construction of suitable hazardous waste 42388
facilities required by division (B) of section 3734.23 of the 42389
Revised Code to the extent the director determines that such 42390
facilities are not available, and for the payment of costs that 42391
are necessary to abate conditions thereon that are causing or 42392
contributing to or threatening to cause or contribute to air or 42393
water pollution or soil contamination or that constitute a 42394
substantial threat to public health or safety. In addition, the 42395
director may expend and pledge moneys credited to ~~the~~ either fund 42396
for repayment of and for interest on any loan made by the Ohio 42397
water development authority to the environmental protection agency 42398
for the payment of such costs. 42399

(B) Before beginning to clean up any facility under this 42400
section, the director shall develop a plan for the cleanup and an 42401
estimate of the cost thereof. The plan shall include only those 42402
measures necessary to abate conditions thereon that are causing or 42403
contributing to or threatening to cause or contribute to air or 42404
water pollution or soil contamination or that constitute a 42405
substantial threat to public health or safety, including, but not 42406
limited to, establishment and maintenance of an adequate cover of 42407
soil and vegetation on any facility for the burial of hazardous 42408
waste to prevent the infiltration of water into cells where 42409
hazardous waste is buried, the accumulation or runoff of 42410

contaminated surface water, the production of leachate, and air 42411
emissions of hazardous waste; the collection and treatment of 42412
contaminated surface water runoff; the collection and treatment of 42413
leachate; or, if conditions so require, the removal of hazardous 42414
waste from the facility and the treatment or disposal of the waste 42415
at a suitable hazardous waste facility. The plan or any part of 42416
the plan for the cleanup of the facility shall be carried out by 42417
entering into contracts therefor in accordance with the procedures 42418
established in division (C) of section 3734.23 of the Revised 42419
Code. 42420

Sec. 3734.22. Before beginning to clean up any facility under 42421
section 3734.21 of the Revised Code, the director of environmental 42422
protection shall endeavor to enter into an agreement with the 42423
owner of the land on which the facility is located, or with the 42424
owner of the facility, specifying the measures to be performed and 42425
authorizing the director, employees of the agency, or contractors 42426
retained by the director to enter upon the land and perform the 42427
specified measures. 42428

Each agreement ~~shall~~ may contain provisions for the 42429
reimbursement of the state for the costs of the cleanup. 42430

All reimbursements and payments shall be credited to the 42431
hazardous waste clean-up fund created in section 3734.28 of the 42432
Revised Code or the environmental protection remediation fund 42433
created in section 3734.281 of the Revised Code, as applicable. 42434

The agreement may require the owner to execute an easement 42435
whereby the director, an authorized employee of the agency, or a 42436
contractor employed by the agency in accordance with the bidding 42437
procedure established in division (C) of section 3734.23 of the 42438
Revised Code may enter upon the facility to sample, repair, or 42439
reconstruct air and water quality monitoring equipment constructed 42440
under the agreement. Such easements shall be for a specified 42441

period of years and may be extinguished by agreement between the
owner and the director. When necessary to protect the public
health or safety, the agreement may require the owner to enter
into an environmental covenant with the director in accordance
with sections 5301.80 to 5301.92 of the Revised Code.

Upon a breach of the reimbursement provisions of the
agreement by the owner of the land or facility, or upon
notification to the director by the owner that the owner is unable
to perform the duties under the reimbursement provisions of the
agreement, the director ~~shall~~ may record the unreimbursed portion
of the costs of cleanup at the office of the county recorder of
the county in which the facility is located. The costs so recorded
constitute a lien against the property on which the facility is
located until discharged. Upon written request of the director,
the attorney general shall institute a civil action to recover the
unreimbursed portion of the costs of cleanup. Any moneys so
recovered shall be credited to the hazardous waste clean-up fund
or the environmental protection remediation fund, as applicable.

Sec. 3734.23. (A) The director of environmental protection
may acquire by purchase, gift, donation, contribution, or
appropriation in accordance with sections 163.01 to 163.21 of the
Revised Code any hazardous waste facility or any solid waste
facility containing significant quantities of hazardous waste
that, because of its condition and the types and quantities of
hazardous waste contained in the facility, constitutes an imminent
and substantial threat to public health or safety or results in
air pollution, pollution of the waters of the state, or soil
contamination. For this purpose and for the purposes of division
(B) of this section, the director may expend moneys from the
hazardous waste clean-up fund created in section 3734.28 of the
Revised Code or the environmental protection remediation fund

created in section 3734.281 of the Revised Code and may expend 42473
moneys from loans from the Ohio water development authority to the 42474
environmental protection agency that pledge moneys from ~~the~~ either 42475
fund for the repayment of and for the interest on such loans. Any 42476
lands or facilities purchased or acquired under this section shall 42477
be deeded to the state, but no deed shall be accepted or the 42478
purchase price paid until the title has been approved by the 42479
attorney general. 42480

(B) The director shall, with respect to any land or facility 42481
acquired under this section or cleaned up under section 3734.20 of 42482
the Revised Code, perform closure or other measures necessary to 42483
abate conditions thereon that are causing or contributing to or 42484
threatening to cause or contribute to air or water pollution or 42485
soil contamination or that constitute a substantial threat to 42486
public health or safety, including, but not limited to, 42487
establishment and maintenance of an adequate cover of soil and 42488
vegetation on any facility for the burial of hazardous waste to 42489
prevent the infiltration of water into cells where hazardous waste 42490
is buried, the accumulation or runoff of contaminated surface 42491
water, the production of leachate, and air emissions of hazardous 42492
waste; the collection and treatment of contaminated surface water 42493
runoff; the collection and treatment of leachate; or, if 42494
conditions so require, the removal of hazardous waste from the 42495
facility and the treatment or disposal of the waste at a suitable 42496
hazardous waste facility. After performing these measures, the 42497
director shall provide for the post-closure care, maintenance, and 42498
monitoring of facilities cleaned up under this section. 42499

(C) Before proceeding to clean up any facility under this 42500
section or section 3734.20 or 3734.21 of the Revised Code, the 42501
director shall develop a plan for the cleanup of the facility and 42502
an estimate of the cost thereof. The director may carry out the 42503
plan or any part of the plan by contracting for the services, 42504

construction, and repair necessary therefor. The director shall 42505
award each such contract to the lowest responsible bidder after 42506
sealed bids therefor are received, opened, and published at the 42507
time fixed by the director and notice of the time and place at 42508
which the sealed bids will be received, opened, and published has 42509
been published by the director in a newspaper of general 42510
circulation in the county in which the facility to be cleaned up 42511
under the contract is located at least once within the ten days 42512
before the opening of the bids. However, if after advertising for 42513
bids for the contract, no bids are received by the director at the 42514
time and place fixed for receiving them, the director may 42515
advertise again for bids, or ~~he~~ the director may, if ~~he~~ the 42516
director considers the public interest will best be served 42517
thereby, enter into a contract for the cleanup of the facility 42518
without further advertisement for bids. The director may reject 42519
any or all bids received and fix and publish again notice of the 42520
time and place at which bids for the contracts will be received, 42521
opened, and published. 42522

(D) The director shall keep an itemized record of the costs 42523
of any acquisition under division (A) of this section and the 42524
costs of cleanup under division (B) of this section. 42525

Sec. 3734.28. All moneys collected under sections 3734.122, 42526
3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised 42527
Code and natural resource damages collected by the state under the 42528
"Comprehensive Environmental Response, Compensation, and Liability 42529
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall 42530
be paid into the state treasury to the credit of the hazardous 42531
waste clean-up fund, which is hereby created. In addition, any 42532
moneys recovered for costs paid from the fund for activities 42533
described in division (A)(1) and (2) of section 3745.12 of the 42534
Revised Code shall be credited to the fund. The environmental 42535
protection agency shall use the moneys in the fund for the 42536

purposes set forth in division (D) of section 3734.122, sections 42537
3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, 42538
and, through October 15, 2005, divisions (A)(1) and (2) of section 42539
3745.12 and Chapter 3746. of the Revised Code, including any 42540
related enforcement expenses. In addition, the agency shall use 42541
the moneys in the fund to pay the state's long-term operation and 42542
maintenance costs or matching share for actions taken under the 42543
"Comprehensive Environmental Response, Compensation, and Liability 42544
Act of 1980," as amended. If those moneys are reimbursed by grants 42545
or other moneys from the United States or any other person, the 42546
moneys shall be placed in the fund and not in the general revenue 42547
fund. 42548

~~Sec. 3734.57. (A) For the purposes of paying the state's 42549
long term operation costs or matching share for actions taken 42550
under the "Comprehensive Environmental Response, Compensation, and 42551
Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as 42552
amended; paying the costs of measures for proper clean up of sites 42553
where polychlorinated biphenyls and substances, equipment, and 42554
devices containing or contaminated with polychlorinated biphenyls 42555
have been stored or disposed of; paying the costs of conducting 42556
surveys or investigations of solid waste facilities or other 42557
locations where it is believed that significant quantities of 42558
hazardous waste were disposed of and for conducting enforcement 42559
actions arising from the findings of such surveys or 42560
investigations; paying the costs of acquiring and cleaning up, or 42561
providing financial assistance for cleaning up, any hazardous 42562
waste facility or solid waste facility containing significant 42563
quantities of hazardous waste, that constitutes an imminent and 42564
substantial threat to public health or safety or the environment; 42565
and, from July 1, 2003, through June 30, 2006, for the purposes of 42566
paying the costs of administering and enforcing the laws 42567
pertaining to solid wastes, infectious wastes, and construction 42568~~

~~and demolition debris, including, without limitation, ground water~~ 42569
~~evaluations related to solid wastes, infectious wastes, and~~ 42570
~~construction and demolition debris, under this chapter and Chapter~~ 42571
~~3714. of the Revised Code and any rules adopted under them, and~~ 42572
~~paying a share of the administrative costs of the environmental~~ 42573
~~protection agency pursuant to section 3745.014 of the Revised~~ 42574
~~Code, the~~ The following fees are hereby levied on the disposal of 42575
solid wastes in this state: 42576

(1) One dollar per ton on and after July 1, ~~1993~~2003, through 42577
June 30, 2008, one-half of the proceeds of which shall be 42578
deposited in the state treasury to the credit of the hazardous 42579
waste facility management fund created in section 3734.18 of the 42580
Revised Code and one-half of the proceeds of which shall be 42581
deposited in the state treasury to the credit of the hazardous 42582
waste clean-up fund created in section 3734.28 of the Revised 42583
Code; 42584

(2) An additional one dollar per ton on and after July 1, 42585
2003, through June 30, ~~2006~~ 2008, the proceeds of which shall be 42586
deposited in the state treasury to the credit of the solid waste 42587
fund, which is hereby created. The environmental protection agency 42588
shall use money in the solid waste fund to pay the costs of 42589
administering and enforcing the laws pertaining to solid wastes, 42590
infectious wastes, and construction and demolition debris, 42591
including, without limitation, ground water evaluations related to 42592
solid wastes, infectious wastes, and construction and demolition 42593
debris, under this chapter and Chapter 3714. of the Revised Code 42594
and any rules adopted under them, providing compliance assistance 42595
to small businesses, and paying a share of the administrative 42596
costs of the environmental protection agency pursuant to section 42597
3745.014 of the Revised Code. 42598

(3) An additional one dollar and fifty cents per ton on and 42599
after July 1, 2005, through June 30, 2008, the proceeds of which 42600

shall be deposited in the state treasury to the credit of the 42601
environmental protection fund created in section 3745.015 of the 42602
Revised Code. 42603

In the case of solid wastes that are taken to a solid waste 42604
transfer facility located in this state prior to being transported 42605
to a solid waste disposal facility for disposal, the fees levied 42606
under this division shall be collected by the owner or operator of 42607
the transfer facility as a trustee for the state. The amount of 42608
fees required to be collected under this division at such a 42609
transfer facility shall equal the total tonnage of solid wastes 42610
received at the facility multiplied by the fees levied under this 42611
division. In the case of solid wastes that are not taken to a 42612
solid waste transfer facility located in this state prior to being 42613
transported to a solid waste disposal facility, the fees shall be 42614
collected by the owner or operator of the solid waste disposal 42615
facility as a trustee for the state. The amount of fees required 42616
to be collected under this division at such a disposal facility 42617
shall equal the total tonnage of solid wastes received at the 42618
facility that was not previously taken to a solid waste transfer 42619
facility located in this state multiplied by the fees levied under 42620
this division. Fees levied under this division do not apply to 42621
materials separated from a mixed waste stream for recycling by a 42622
generator or materials removed from the solid waste stream through 42623
recycling, as "recycling" is defined in rules adopted under 42624
section 3734.02 of the Revised Code. 42625

The owner or operator of a solid waste transfer facility or 42626
disposal facility shall collect the fees levied under this 42627
division as a trustee for the state and, as applicable, shall 42628
prepare and file with the director of environmental protection 42629
monthly returns each month a return indicating the total tonnage 42630
of solid wastes received ~~for disposal at the gate of the facility~~ 42631
during that month and the total amount of the fees required to be 42632

collected under this division during that month. In addition, the 42633
owner or operator of a solid waste disposal facility shall 42634
indicate on the return the total tonnage of solid wastes received 42635
from transfer facilities located in this state during that month 42636
for which the fees were required to be collected by the transfer 42637
facilities. The monthly returns shall be filed on a form 42638
prescribed by the director. Not later than thirty days after the 42639
last day of the month to which ~~such~~ a return applies, the owner or 42640
operator shall mail to the director the return for that month 42641
together with the fees required to be collected under this 42642
division during that month as indicated on the return. ~~The~~ If the 42643
return is filed and the amount of the fees due is paid in a timely 42644
manner as required in this division, the owner or operator may 42645
retain a discount of three-fourths of one per cent of the total 42646
amount of the fees that are required to be paid as indicated on 42647
the return. 42648

The owner or operator may request an extension of not more 42649
than thirty days for filing the return and remitting the fees, 42650
provided that the owner or operator has submitted such a request 42651
in writing to the director together with a detailed description of 42652
why the extension is requested, the director has received the 42653
request not later than the day on which the return is required to 42654
be filed, and the director has approved the request. If the fees 42655
are not remitted within thirty days after the last day of the 42656
month ~~during which they were collected~~ to which the return applies 42657
or are not remitted by the last day of an extension approved by 42658
the director, the owner or operator shall not retain the 42659
three-fourths of one per cent discount and shall pay an additional 42660
~~fifty~~ ten per cent of the amount of the fees for each month that 42661
they are late. For purposes of calculating the late fee, the first 42662
month in which fees are late begins on the first day after the 42663
deadline has passed for timely submitting the return and fees, and 42664
one additional month shall be counted every thirty days 42665

thereafter. 42666

~~One half of the moneys remitted to the director under 42667
division (A)(1) of this section shall be credited to the hazardous 42668
waste facility management fund created in section 3734.18 of the 42669
Revised Code, and one half shall be credited to the hazardous 42670
waste clean up fund created in section 3734.28 of the Revised 42671
Code. The moneys remitted to the director under division (A)(2) of 42672
this section shall be credited to the solid waste fund, which is 42673
hereby created in the state treasury. The environmental protection 42674
agency shall use moneys in the solid waste fund only to pay the 42675
costs of administering and enforcing the laws pertaining to solid 42676
wastes, infectious wastes, and construction and demolition debris, 42677
including, without limitation, ground water evaluations related to 42678
solid wastes, infectious wastes, and construction and demolition 42679
debris, under this chapter and Chapter 3714. of the Revised Code 42680
and rules adopted under them and to pay a share of the 42681
administrative costs of the environmental protection agency 42682
pursuant to section 3745.014 of the Revised Code. 42683~~

The owner or operator of a solid waste facility may request a 42684
refund or credit of fees levied under this division and remitted 42685
to the director that have not been paid to the owner or operator. 42686
Such a request shall be made only if the fees have not been 42687
collected by the owner or operator, have become a debt that has 42688
become worthless or uncollectable for a period of six months or 42689
more, and may be claimed as a deduction, including a deduction 42690
claimed if the owner or operator keeps accounts on an accrual 42691
basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 42692
U.S.C. 166, as amended, and regulations adopted under it. Prior to 42693
making a request for a refund or credit, an owner or operator 42694
shall make reasonable efforts to collect the applicable fees. A 42695
request for a refund or credit shall not include any costs 42696
resulting from those efforts to collect unpaid fees. 42697

A request for a refund or credit of fees shall be made in writing, on a form prescribed by the director, and shall be supported by evidence that may be required in rules adopted by the director under this chapter. After reviewing the request, the director may grant a refund to the owner or operator or may permit a credit to be taken by the owner or operator on a subsequent monthly return submitted by the owner or operator. The amount of a refund or credit shall not exceed an amount that is equal to ninety days' worth of fees owed to an owner or operator by a particular debtor of the owner or operator. A refund or credit shall not be granted by the director to an owner or operator more than once in any twelve-month period for fees owed to the owner or operator by a particular debtor. 42698
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If, after receiving a refund or credit from the director, an owner or operator receives payment of all or part of the fees, the owner or operator shall remit the fees with the next monthly return submitted to the director together with a written explanation of the reason for the submittal. 42711
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For purposes of computing the fees levied under this division or division (B) of this section, any solid waste transfer or disposal facility that does not use scales as a means of determining gate receipts shall use a conversion factor of three cubic yards per ton of solid waste or one cubic yard per ton for baled waste, as applicable. 42716
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The fees levied under this division and divisions (B) and (C) of this section are in addition to all other applicable fees and taxes and shall be added to any other fee or amount specified in a ~~contract that is charged~~ paid by the customer to the owner or operator of a solid waste transfer or disposal facility ~~or to any other fee or amount that is specified in a contract entered into on or after March 4, 1992, and that is charged by a transporter of solid wastes notwithstanding the existence of any provision in a~~ 42722
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contract that the customer may have with the owner or operator 42730
that would not require or allow such payment. 42731

~~(B) For the purpose of preparing, revising, and implementing~~ 42732
~~the solid waste management plan of the county or joint solid waste~~ 42733
~~management district, including, without limitation, the~~ 42734
~~development and implementation of solid waste recycling or~~ 42735
~~reduction programs; providing financial assistance to boards of~~ 42736
~~health within the district, if solid waste facilities are located~~ 42737
~~within the district, for the enforcement of this chapter and rules~~ 42738
~~adopted and orders and terms and conditions of permits, licenses,~~ 42739
~~and variances issued under it, other than the hazardous waste~~ 42740
~~provisions of this chapter and rules adopted and orders and terms~~ 42741
~~and conditions of permits issued under those provisions; providing~~ 42742
~~financial assistance to the county to defray the added costs of~~ 42743
~~maintaining roads and other public facilities and of providing~~ 42744
~~emergency and other public services resulting from the location~~ 42745
~~and operation of a solid waste facility within the county under~~ 42746
~~the district's approved solid waste management plan; paying the~~ 42747
~~costs incurred by boards of health for collecting and analyzing~~ 42748
~~water samples from public or private wells on lands adjacent to~~ 42749
~~solid waste facilities that are contained in the approved or~~ 42750
~~amended plan of the district; paying the costs of developing and~~ 42751
~~implementing a program for the inspection of solid wastes~~ 42752
~~generated outside the boundaries of this state that are disposed~~ 42753
~~of at solid waste facilities included in the district's approved~~ 42754
~~solid waste management plan or amended plan; providing financial~~ 42755
~~assistance to boards of health within the district for enforcing~~ 42756
~~laws prohibiting open dumping; providing financial assistance to~~ 42757
~~local law enforcement agencies within the district for enforcing~~ 42758
~~laws and ordinances prohibiting littering; providing financial~~ 42759
~~assistance to boards of health of health districts within the~~ 42760
~~district that are on the approved list under section 3734.08 of~~ 42761
~~the Revised Code for the training and certification required for~~ 42762

~~their employees responsible for solid waste enforcement by rules~~ 42763
~~adopted under division (L) of section 3734.02 of the Revised Code;~~ 42764
~~providing financial assistance to individual municipal~~ 42765
~~corporations and townships within the district to defray their~~ 42766
~~added costs of maintaining roads and other public facilities and~~ 42767
~~of providing emergency and other public services resulting from~~ 42768
~~the location and operation within their boundaries of a~~ 42769
~~composting, energy or resource recovery, incineration, or~~ 42770
~~recycling facility that either is owned by the district or is~~ 42771
~~furnishing solid waste management facility or recycling services~~ 42772
~~to the district pursuant to a contract or agreement with the board~~ 42773
~~of county commissioners or directors of the district; and payment~~ 42774
~~of any expenses that are agreed to, awarded, or ordered to be paid~~ 42775
~~under section 3734.35 of the Revised Code and of any~~ 42776
~~administrative costs incurred pursuant to that section purposes~~ 42777
~~specified in division (G) of this section, the solid waste~~ 42778
~~management policy committee of a county or joint solid waste~~ 42779
~~management district may levy fees upon the following activities:~~ 42780

(1) The disposal at a solid waste disposal facility located 42781
in the district of solid wastes generated within the district; 42782

(2) The disposal at a solid waste disposal facility within 42783
the district of solid wastes generated outside the boundaries of 42784
the district, but inside this state; 42785

(3) The disposal at a solid waste disposal facility within 42786
the district of solid wastes generated outside the boundaries of 42787
this state. 42788

~~If any such fees are levied prior to January 1, 1994, fees~~ 42789
~~levied under division (B)(1) of this section always shall be equal~~ 42790
~~to one half of the fees levied under division (B)(2) of this~~ 42791
~~section, and fees levied under division (B)(3) of this section,~~ 42792
~~which shall be in addition to fees levied under division (B)(2) of~~ 42793
~~this section, always shall be equal to fees levied under division~~ 42794

~~(B)(1) of this section, except as otherwise provided in this~~ 42795
~~division.~~ The solid waste management plan of the county or joint 42796
district approved under section 3734.521 or 3734.55 of the Revised 42797
Code and any amendments to it, or the resolution adopted under 42798
this division, as appropriate, shall establish the rates of the 42799
fees levied under divisions (B)(1), (2), and (3) of this section, 42800
if any, and shall specify whether the fees are levied on the basis 42801
of tons or cubic yards as the unit of measurement. ~~Although the~~ 42802
~~fees under divisions (A)(1) and (2) of this section are levied on~~ 42803
~~the basis of tons as the unit of measurement, the~~ A solid waste 42804
management ~~plan of the district and any amendments to it or the~~ 42805
~~solid waste management policy committee in its resolution levying~~ 42806
~~fees under this division may direct that the~~ levies fees levied 42807
~~under those divisions be levied~~ this division on the basis of 42808
cubic yards as ~~the unit of measurement based upon a conversion~~ 42809
~~factor of three cubic yards per ton generally or one cubic yard~~ 42810
~~per ton for baled wastes if the fees under divisions (B)(1) to (3)~~ 42811
~~of this section are being levied on the basis of cubic yards as~~ 42812
~~the unit of measurement under the plan, amended plan, or~~ 42813
~~resolution~~ shall do so in accordance with division (A) of this 42814
section. 42815

~~On and after January 1, 1994, the~~ The fee levied under 42816
division (B)(1) of this section shall be not less than one dollar 42817
per ton nor more than two dollars per ton, the fee levied under 42818
division (B)(2) of this section shall be not less than two dollars 42819
per ton nor more than four dollars per ton, and the fee levied 42820
under division (B)(3) of this section shall be not more than the 42821
fee levied under division (B)(1) of this section, ~~except as~~ 42822
~~otherwise provided in this division and notwithstanding any~~ 42823
~~schedule of those fees established in the solid waste management~~ 42824
~~plan of a county or joint district approved under section 3734.55~~ 42825
~~of the Revised Code or a resolution adopted and ratified under~~ 42826
~~this division that is in effect on that date. If the fee that a~~ 42827

~~district is levying under division (B)(1) of this section on that 42828
date under its approved plan or such a resolution is less than one 42829
dollar per ton, the fee shall be one dollar per ton on and after 42830
January 1, 1994, and if the fee that a district is so levying 42831
under that division exceeds two dollars per ton, the fee shall be 42832
two dollars per ton on and after that date. If the fee that a 42833
district is so levying under division (B)(2) of this section is 42834
less than two dollars per ton, the fee shall be two dollars per 42835
ton on and after that date, and if the fee that the district is so 42836
levying under that division exceeds four dollars per ton, the fee 42837
shall be four dollars per ton on and after that date. On that 42838
date, the fee levied by a district under division (B)(3) of this 42839
section shall be equal to the fee levied under division (B)(1) of 42840
this section. Except as otherwise provided in this division, the 42841
fees established by the operation of this amendment shall remain 42842
in effect until the district's resolution levying fees under this 42843
division is amended or repealed in accordance with this division 42844
to amend or abolish the schedule of fees, the schedule of fees is 42845
amended or abolished in an amended plan of the district approved 42846
under section 3734.521 or division (A) or (D) of section 3734.56 42847
of the Revised Code, or the schedule of fees is amended or 42848
abolished through an amendment to the district's plan under 42849
division (E) of section 3734.56 of the Revised Code; the 42850
notification of the amendment or abolishment of the fees has been 42851
given in accordance with this division; and collection of the 42852
amended fees so established commences, or collection of the fees 42853
ceases, in accordance with this division. 42854~~

~~The solid waste management policy committee of a district 42855
levying fees under divisions (B)(1) to (3) of this section on 42856
October 29, 1993, under its solid waste management plan approved 42857
under section 3734.55 of the Revised Code or a resolution adopted 42858
and ratified under this division that are within the ranges of 42859
rates prescribed by this amendment, by adoption of a resolution 42860~~

~~not later than December 1, 1993, and without the necessity for
ratification of the resolution under this division, may amend
those fees within the prescribed ranges, provided that the
estimated revenues from the amended fees will not substantially
exceed the estimated revenues set forth in the district's budget
for calendar year 1994. Not later than seven days after the
adoption of such a resolution, the committee shall notify by
certified mail the owner or operator of each solid waste disposal
facility that is required to collect the fees of the adoption of
the resolution and of the amount of the amended fees. Collection
of the amended fees shall take effect on the first day of the
first month following the month in which the notification is sent
to the owner or operator. The fees established in such a
resolution shall remain in effect until the district's resolution
levying fees that was adopted and ratified under this division is
amended or repealed, and the amendment or repeal of the resolution
is ratified, in accordance with this division, to amend or abolish
the fees, the schedule of fees is amended or abolished in an
amended plan of the district approved under section 3734.521 or
division (A) or (D) of section 3734.56 of the Revised Code, or the
schedule of fees is amended or abolished through an amendment to
the district's plan under division (E) of section 3734.56 of the
Revised Code; the notification of the amendment or abolishment of
the fees has been given in accordance with this division; and
collection of the amended fees so established commences, or
collection of the fees ceases, in accordance with this division.~~

Prior to the approval of the solid waste management plan of
the a district under section 3734.55 of the Revised Code, the
solid waste management policy committee of a district may levy
fees under this division by adopting a resolution establishing the
proposed amount of the fees. Upon adopting the resolution, the
committee shall deliver a copy of the resolution to the board of

county commissioners of each county forming the district and to 42893
the legislative authority of each municipal corporation and 42894
township under the jurisdiction of the district and shall prepare 42895
and publish the resolution and a notice of the time and location 42896
where a public hearing on the fees will be held. Upon adopting the 42897
resolution, the committee shall deliver written notice of the 42898
adoption of the resolution; of the amount of the proposed fees; 42899
and of the date, time, and location of the public hearing to the 42900
director and to the fifty industrial, commercial, or institutional 42901
generators of solid wastes within the district that generate the 42902
largest quantities of solid wastes, as determined by the 42903
committee, and to their local trade associations. The committee 42904
shall make good faith efforts to identify those generators within 42905
the district and their local trade associations, but the 42906
nonprovision of notice under this division to a particular 42907
generator or local trade association does not invalidate the 42908
proceedings under this division. The publication shall occur at 42909
least thirty days before the hearing. After the hearing, the 42910
committee may make such revisions to the proposed fees as it 42911
considers appropriate and thereafter, by resolution, shall adopt 42912
the revised fee schedule. Upon adopting the revised fee schedule, 42913
the committee shall deliver a copy of the resolution doing so to 42914
the board of county commissioners of each county forming the 42915
district and to the legislative authority of each municipal 42916
corporation and township under the jurisdiction of the district. 42917
Within sixty days after the delivery of a copy of the resolution 42918
adopting the proposed revised fees by the policy committee, each 42919
such board and legislative authority, by ordinance or resolution, 42920
shall approve or disapprove the revised fees and deliver a copy of 42921
the ordinance or resolution to the committee. If any such board or 42922
legislative authority fails to adopt and deliver to the policy 42923
committee an ordinance or resolution approving or disapproving the 42924
revised fees within sixty days after the policy committee 42925

delivered its resolution adopting the proposed revised fees, it 42926
shall be conclusively presumed that the board or legislative 42927
authority has approved the proposed revised fees. The committee 42928
shall determine if the resolution has been ratified in the same 42929
manner in which it determines if a draft solid waste management 42930
plan has been ratified under division (B) of section 3734.55 of 42931
the Revised Code. 42932

~~In the case of a county district or a joint district formed 42933~~
~~by two or three counties, the committee shall declare the proposed 42934~~
~~revised fees to be ratified as the fee schedule of the district 42935~~
~~upon determining that the board of county commissioners of each 42936~~
~~county forming the district has approved the proposed revised fees 42937~~
~~and that the legislative authorities of a combination of municipal 42938~~
~~corporations and townships with a combined population within the 42939~~
~~district comprising at least sixty per cent of the total 42940~~
~~population of the district have approved the proposed revised 42941~~
~~fees, provided that in the case of a county district, that 42942~~
~~combination shall include the municipal corporation having the 42943~~
~~largest population within the boundaries of the district, and 42944~~
~~provided further that in the case of a joint district formed by 42945~~
~~two or three counties, that combination shall include for each 42946~~
~~county forming the joint district the municipal corporation having 42947~~
~~the largest population within the boundaries of both the county in 42948~~
~~which the municipal corporation is located and the joint district. 42949~~
~~In the case of a joint district formed by four or more counties, 42950~~
~~the committee shall declare the proposed revised fees to be 42951~~
~~ratified as the fee schedule of the joint district upon 42952~~
~~determining that the boards of county commissioners of a majority 42953~~
~~of the counties forming the district have approved the proposed 42954~~
~~revised fees; that, in each of a majority of the counties forming 42955~~
~~the joint district, the proposed revised fees have been approved 42956~~
~~by the municipal corporation having the largest population within 42957~~
~~the county and the joint district; and that the legislative 42958~~

~~authorities of a combination of municipal corporations and
townships with a combined population within the joint district
comprising at least sixty per cent of the total population of the
joint district have approved the proposed revised fees.~~

~~For the purposes of this division, only the population of the
unincorporated area of a township shall be considered. For the
purpose of determining the largest municipal corporation within
each county under this division, a municipal corporation that is
located in more than one solid waste management district, but that
is under the jurisdiction of one county or joint solid waste
management district in accordance with division (A) of section
3734.52 of the Revised Code shall be considered to be within the
boundaries of the county in which a majority of the population of
the municipal corporation resides.~~

The committee may amend the schedule of fees levied pursuant
to a resolution ~~or amended resolution~~ adopted and ratified under
this division by adopting a resolution establishing the proposed
amount of the amended fees. The committee may ~~abolish~~ repeal the
fees levied pursuant to such a resolution ~~or amended resolution~~ by
adopting a resolution proposing to repeal them. Upon adopting such
a resolution, the committee shall proceed to obtain ratification
of the resolution in accordance with this division.

Not later than fourteen days after declaring the new fees ~~or~~
~~amended fees~~ to be ratified or the fees to be repealed under this
division, the committee shall notify by certified mail the owner
or operator of each solid waste disposal facility that is required
to collect the fees of the ratification and the amount of the fees
or of the repeal of the fees. Collection of any fees ~~or amended~~
~~fees ratified on or after March 24, 1992,~~ shall commence or
collection of repealed fees shall cease on the first day of the
second month following the month in which notification is sent to
the owner or operator.

~~Not later than fourteen days after declaring the repeal of the district's schedule of fees to be ratified under this division, the committee shall notify by certified mail the owner or operator of each facility that is collecting the fees of the repeal. Collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.~~

Fees levied under this division also may be established, amended, or repealed by a solid waste management policy committee through the adoption of a new district solid waste management plan, the adoption of an amended plan, or the amendment of the plan or amended plan in accordance with sections 3734.55 and 3734.56 of the Revised Code or the adoption or amendment of a district plan in connection with a change in district composition under section 3734.521 of the Revised Code.

Not later than fourteen days after the director issues an order approving a district's solid waste management plan ~~under section 3734.55 of the Revised Code or, amended plan under division (A) or (D) of section 3734.56 of the Revised Code, or amendment to a plan or amended plan that establishes or, amends, or repeals~~ a schedule of fees levied by the district, ~~or the ratification of an amendment to the district's approved plan or amended plan under division (E) of section 3734.56 of the Revised Code that establishes or amends a schedule of fees, as appropriate,~~ the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the approval of the plan or amended plan, or the amendment to the plan, as appropriate, and the amount of the fees ~~or amended fees, if any~~. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint

~~district, that establishes or amends a schedule of fees levied~~ 43023
~~under divisions (B)(1) to (3) of this section by a district~~ 43024
~~resulting from the change,~~ the committee, within fourteen days 43025
after the change takes effect pursuant to division (G) of that 43026
section, shall notify by certified mail the owner or operator of 43027
each solid waste disposal facility that is required to collect the 43028
fees that the change has taken effect and of the amount of the 43029
fees ~~or amended fees, if any.~~ Collection of any fees ~~set forth in~~ 43030
~~a plan or amended plan approved by the director on or after April~~ 43031
~~16, 1993, or an amendment of a plan or amended plan under division~~ 43032
~~(E) of section 3734.56 of the Revised Code that is ratified on or~~ 43033
~~after April 16, 1993,~~ shall commence or collection of repealed 43034
fees shall cease on the first day of the second month following 43035
the month in which notification is sent to the owner or operator. 43036

~~Not later than fourteen days after the director issues an~~ 43037
~~order approving a district's plan under section 3734.55 of the~~ 43038
~~Revised Code or amended plan under division (A) or (D) of section~~ 43039
~~3734.56 of the Revised Code that abolishes the schedule of fees~~ 43040
~~levied under divisions (B)(1) to (3) of this section, or an~~ 43041
~~amendment to the district's approved plan or amended plan~~ 43042
~~abolishing the schedule of fees is ratified pursuant to division~~ 43043
~~(E) of section 3734.56 of the Revised Code, as appropriate, the~~ 43044
~~committee shall notify by certified mail the owner or operator of~~ 43045
~~each facility that is collecting the fees of the approval of the~~ 43046
~~plan or amended plan, or the amendment of the plan or amended~~ 43047
~~plan, as appropriate, and the abolishment of the fees. In the case~~ 43048
~~of an initial or amended plan approved under section 3734.521 of~~ 43049
~~the Revised Code in connection with a change in district~~ 43050
~~composition, other than one involving the withdrawal of a county~~ 43051
~~from a joint district, that abolishes the schedule of fees levied~~ 43052
~~under divisions (B)(1) to (3) of this section by a district~~ 43053
~~resulting from the change, the committee, within fourteen days~~ 43054
after the change takes effect pursuant to division (G) of that 43055

~~section, shall notify by certified mail the owner or operator of 43056
each solid waste disposal facility that is required to collect the 43057
fees that the change has taken effect and of the abolishment of 43058
the fees. Collection of the fees shall cease on the first day of 43059
the second month following the month in which notification is sent 43060
to the owner or operator. 43061~~

~~Except as otherwise provided in this division, if the 43062
schedule of fees that a district is levying under divisions (B)(1) 43063
to (3) of this section pursuant to a resolution or amended 43064
resolution adopted and ratified under this division, the solid 43065
waste management plan of the district approved under section 43066
3734.55 of the Revised Code, an amended plan approved under 43067
division (A) or (D) of section 3734.56 of the Revised Code, or an 43068
amendment to the district's approved plan or amended plan under 43069
division (E) of section 3734.56 of the Revised Code, is amended by 43070
the adoption and ratification of an amendment to the resolution or 43071
amended resolution or an amendment of the district's approved plan 43072
or amended plan, the fees in effect immediately prior to the 43073
approval of the plan or the amendment of the resolution, amended 43074
resolution, plan, or amended plan, as appropriate, shall continue 43075
to be collected until collection of the amended fees commences 43076
pursuant to this division. 43077~~

~~If, in the case of a change in district composition involving 43078
the withdrawal of a county from a joint district, the director 43079
completes the actions required under division (G)(1) or (3) of 43080
section 3734.521 of the Revised Code, as appropriate, forty-five 43081
days or more before the beginning of a calendar year, the policy 43082
committee of each of the districts resulting from the change that 43083
obtained the director's approval of an initial or amended plan in 43084
connection with the change, within fourteen days after the 43085
director's completion of the required actions, shall notify by 43086
certified mail the owner or operator of each solid waste disposal 43087~~

facility that is required to collect the district's fees that the 43088
change is to take effect on the first day of January immediately 43089
following the issuance of the notice and of the amount of the fees 43090
or amended fees levied under divisions (B)(1) to (3) of this 43091
section pursuant to the district's initial or amended plan as so 43092
approved or, if appropriate, the ~~abolishment~~ repeal of the 43093
district's fees by that initial or amended plan. Collection of any 43094
fees set forth in such a plan or amended plan shall commence on 43095
the first day of January immediately following the issuance of the 43096
notice. If such an initial or amended plan ~~abolishes~~ repeals a 43097
schedule of fees, collection of the fees shall cease on that first 43098
day of January. 43099

If, in the case of a change in district composition involving 43100
the withdrawal of a county from a joint district, the director 43101
completes the actions required under division (G)(1) or (3) of 43102
section 3734.521 of the Revised Code, as appropriate, less than 43103
forty-five days before the beginning of a calendar year, the 43104
director, on behalf of each of the districts resulting from the 43105
change that obtained the director's approval of an initial or 43106
amended plan in connection with the change proceedings, shall 43107
notify by certified mail the owner or operator of each solid waste 43108
disposal facility that is required to collect the district's fees 43109
that the change is to take effect on the first day of January 43110
immediately following the mailing of the notice and of the amount 43111
of the fees or amended fees levied under divisions (B)(1) to (3) 43112
of this section pursuant to the district's initial or amended plan 43113
as so approved or, if appropriate, the ~~abolishment~~ repeal of the 43114
district's fees by that initial or amended plan. Collection of any 43115
fees set forth in such a plan or amended plan shall commence on 43116
the first day of the second month following the month in which 43117
notification is sent to the owner or operator. If such an initial 43118
or amended plan ~~abolishes~~ repeals a schedule of fees, collection 43119

of the fees shall cease on the first day of the second month 43120
following the month in which notification is sent to the owner or 43121
operator. 43122

~~In~~ If the schedule of fees that a solid waste management 43123
district is levying under divisions (B)(1) to (3) of this section 43124
is amended or repealed, the fees in effect immediately prior to 43125
the amendment or repeal shall continue to be collected until 43126
collection of the amended fees commences or collection of the 43127
repealed fees ceases, as applicable, as specified in this 43128
division. ~~In~~ the case of a change in district composition, ~~the~~ 43129
~~schedule of fees that the former districts that existed prior to~~ 43130
~~the change were levying under divisions (B)(1) to (3) of this~~ 43131
~~section pursuant to a resolution or amended resolution adopted and~~ 43132
~~ratified under this division, the solid waste management plan of a~~ 43133
~~former district approved under section 3734.521 or 3734.55 of the~~ 43134
~~Revised Code, an amended plan approved under section 3734.521 or~~ 43135
~~division (A) or (D) of section 3734.56 of the Revised Code, or an~~ 43136
~~amendment to a former district's approved plan or amended plan~~ 43137
~~under division (E) of section 3734.56 of the Revised Code, and~~ 43138
~~that were in effect on the date that the director completed the~~ 43139
~~actions required under division (G)(1) or (3) of section 3734.521~~ 43140
~~of the Revised Code shall continue to be collected until the~~ 43141
~~collection of the fees or amended fees of the districts resulting~~ 43142
~~from the change is required to commence, or if an initial or~~ 43143
~~amended plan of a resulting district abolishes a schedule of fees,~~ 43144
~~collection of the fees is required to cease, under this division.~~ 43145
~~Moneys~~ money so received from the collection of the fees of the 43146
former districts shall be divided among the resulting districts in 43147
accordance with division (B) of section 343.012 of the Revised 43148
Code and the agreements entered into under division (B) of section 43149
343.01 of the Revised Code to establish the former and resulting 43150
districts and any amendments to those agreements. 43151

For the purposes of the provisions of division (B) of this 43152
section establishing the times when newly established or amended 43153
fees levied by a district are required to commence and the 43154
collection of fees that have been amended or ~~abolished~~ repealed is 43155
required to cease, "fees" or "schedule of fees" includes, in 43156
addition to fees levied under divisions (B)(1) to (3) of this 43157
section, those levied under section 3734.573 or 3734.574 of the 43158
Revised Code. 43159

(C) For the purposes of defraying the added costs to a 43160
municipal corporation or township of maintaining roads and other 43161
public facilities and of providing emergency and other public 43162
services, and compensating a municipal corporation or township for 43163
reductions in real property tax revenues due to reductions in real 43164
property valuations resulting from the location and operation of a 43165
solid waste disposal facility within the municipal corporation or 43166
township, a municipal corporation or township in which such a 43167
solid waste disposal facility is located may levy a fee of not 43168
more than twenty-five cents per ton on the disposal of solid 43169
wastes at a solid waste disposal facility located within the 43170
boundaries of the municipal corporation or township regardless of 43171
where the wastes were generated. 43172

The legislative authority of a municipal corporation or 43173
township may levy fees under this division by enacting an 43174
ordinance or adopting a resolution establishing the amount of the 43175
fees. Upon so doing the legislative authority shall mail a 43176
certified copy of the ordinance or resolution to the board of 43177
county commissioners or directors of the county or joint solid 43178
waste management district in which the municipal corporation or 43179
township is located or, if a regional solid waste management 43180
authority has been formed under section 343.011 of the Revised 43181
Code, to the board of trustees of that regional authority, the 43182
owner or operator of each solid waste disposal facility in the 43183

municipal corporation or township that is required to collect the fee by the ordinance or resolution, and the director of environmental protection. Although the fees levied under this division are levied on the basis of tons as the unit of measurement, the legislative authority, in its ordinance or resolution levying the fees under this division, may direct that the fees be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes.

Not later than five days after enacting an ordinance or adopting a resolution under this division, the legislative authority shall so notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fee. Collection of any fee levied on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

(D)(1) The fees levied under divisions (A), (B), and (C) of this section do not apply to the disposal of solid wastes that:

(a) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(b) Are disposed of at facilities that exclusively dispose of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

(2) Except as provided in section 3734.571 of the Revised Code, any fees levied under division (B)(1) of this section apply to solid wastes originating outside the boundaries of a county or

joint district that are covered by an agreement for the joint use 43215
of solid waste facilities entered into under section 343.02 of the 43216
Revised Code by the board of county commissioners or board of 43217
directors of the county or joint district where the wastes are 43218
generated and disposed of. 43219

(3) When solid wastes, other than solid wastes that consist 43220
of scrap tires, are burned in a disposal facility that is an 43221
incinerator or energy recovery facility, the fees levied under 43222
divisions (A), (B), and (C) of this section shall be levied upon 43223
the disposal of the fly ash and bottom ash remaining after burning 43224
of the solid wastes and shall be collected by the owner or 43225
operator of the sanitary landfill where the ash is disposed of. 43226

(4) When solid wastes are delivered to a solid waste transfer 43227
facility, the fees levied under divisions ~~(A)~~, (B), and (C) of 43228
this section shall be levied upon the disposal of solid wastes 43229
transported off the premises of the transfer facility for disposal 43230
and shall be collected by the owner or operator of the solid waste 43231
disposal facility where the wastes are disposed of. 43232

(5) The fees levied under divisions (A), (B), and (C) of this 43233
section do not apply to sewage sludge that is generated by a waste 43234
water treatment facility holding a national pollutant discharge 43235
elimination system permit and that is disposed of through 43236
incineration, land application, or composting or at another 43237
resource recovery or disposal facility that is not a landfill. 43238

(6) The fees levied under divisions (A), (B), and (C) of this 43239
section do not apply to solid wastes delivered to a solid waste 43240
composting facility for processing. When any unprocessed solid 43241
waste or compost product is transported off the premises of a 43242
composting facility and disposed of at a landfill, the fees levied 43243
under divisions (A), (B), and (C) of this section shall be 43244
collected by the owner or operator of the landfill where the 43245

unprocessed waste or compost product is disposed of. 43246

(7) When solid wastes that consist of scrap tires are 43247
processed at a scrap tire recovery facility, the fees levied under 43248
divisions (A), (B), and (C) of this section shall be levied upon 43249
the disposal of the fly ash and bottom ash or other solid wastes 43250
remaining after the processing of the scrap tires and shall be 43251
collected by the owner or operator of the solid waste disposal 43252
facility where the ash or other solid wastes are disposed of. 43253

(8) The director of environmental protection may issue an 43254
order exempting from the fees levied under this section solid 43255
wastes, including, but not limited to, scrap tires, that are 43256
generated, transferred, or disposed of as a result of a contract 43257
providing for the expenditure of public funds entered into by the 43258
administrator or regional administrator of the United States 43259
environmental protection agency, the director of environmental 43260
protection, or the director of administrative services on behalf 43261
of the director of environmental protection for the purpose of 43262
remediating conditions at a hazardous waste facility, solid waste 43263
facility, or other location at which the administrator or regional 43264
administrator or the director of environmental protection has 43265
reason to believe that there is a substantial threat to public 43266
health or safety or the environment or that the conditions are 43267
causing or contributing to air or water pollution or soil 43268
contamination. An order issued by the director of environmental 43269
protection under division (D)(8) of this section shall include a 43270
determination that the amount of the fees not received by a solid 43271
waste management district as a result of the order will not 43272
adversely impact the implementation and financing of the 43273
district's approved solid waste management plan and any approved 43274
amendments to the plan. Such an order is a final action of the 43275
director of environmental protection. 43276

(E) The fees levied under divisions (B) and (C) of this 43277

section shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of as a trustee for the county or joint district and municipal corporation or township where the wastes are disposed of. Moneys from the fees levied under division (B) of this section shall be forwarded to the board of county commissioners or board of directors of the district in accordance with rules adopted under division (H) of this section. Moneys from the fees levied under division (C) of this section shall be forwarded to the treasurer or such other officer of the municipal corporation as, by virtue of the charter, has the duties of the treasurer or to the clerk of the township, as appropriate, in accordance with those rules.

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(F) Moneys received by the treasurer or such other officer of the municipal corporation under division (E) of this section shall be paid into the general fund of the municipal corporation. Moneys received by the clerk of the township under that division shall be paid into the general fund of the township. The treasurer or such other officer of the municipal corporation or the clerk, as appropriate, shall maintain separate records of the moneys received from the fees levied under division (C) of this section.

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(G) Moneys received by the board of county commissioners or board of directors under division (E) of this section or section 3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code shall be paid to the county treasurer, or other official acting in a similar capacity under a county charter, in a county district or to the county treasurer or other official designated by the board of directors in a joint district and kept in a separate and distinct fund to the credit of the district. If a regional solid waste management authority has been formed under section 343.011 of the Revised Code, moneys received by the board of trustees of that regional authority under division (E) of this section shall be kept by the board in a separate and distinct fund to the credit

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of the district. Moneys in the special fund of the county or joint 43310
district arising from the fees levied under division (B) of this 43311
section and the fee levied under division (A) of section 3734.573 43312
of the Revised Code shall be expended by the board of county 43313
commissioners or directors of the district in accordance with the 43314
district's solid waste management plan or amended plan approved 43315
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 43316
exclusively for the following purposes: 43317

(1) Preparation of the solid waste management plan of the 43318
district under section 3734.54 of the Revised Code, monitoring 43319
implementation of the plan, and conducting the periodic review and 43320
amendment of the plan required by section 3734.56 of the Revised 43321
Code by the solid waste management policy committee; 43322

(2) Implementation of the approved solid waste management 43323
plan or amended plan of the district, including, without 43324
limitation, the development and implementation of solid waste 43325
recycling or reduction programs; 43326

(3) Providing financial assistance to boards of health within 43327
the district, if solid waste facilities are located within the 43328
district, for enforcement of this chapter and rules, orders, and 43329
terms and conditions of permits, licenses, and variances adopted 43330
or issued under it, other than the hazardous waste provisions of 43331
this chapter and rules adopted and orders and terms and conditions 43332
of permits issued under those provisions; 43333

(4) Providing financial assistance to each county within the 43334
district to defray the added costs of maintaining roads and other 43335
public facilities and of providing emergency and other public 43336
services resulting from the location and operation of a solid 43337
waste facility within the county under the district's approved 43338
solid waste management plan or amended plan; 43339

(5) Pursuant to contracts entered into with boards of health 43340

within the district, if solid waste facilities contained in the 43341
district's approved plan or amended plan are located within the 43342
district, for paying the costs incurred by those boards of health 43343
for collecting and analyzing samples from public or private water 43344
wells on lands adjacent to those facilities; 43345

(6) Developing and implementing a program for the inspection 43346
of solid wastes generated outside the boundaries of this state 43347
that are disposed of at solid waste facilities included in the 43348
district's approved solid waste management plan or amended plan; 43349

(7) Providing financial assistance to boards of health within 43350
the district for the enforcement of section 3734.03 of the Revised 43351
Code or to local law enforcement agencies having jurisdiction 43352
within the district for enforcing anti-littering laws and 43353
ordinances; 43354

(8) Providing financial assistance to boards of health of 43355
health districts within the district that are on the approved list 43356
under section 3734.08 of the Revised Code to defray the costs to 43357
the health districts for the participation of their employees 43358
responsible for enforcement of the solid waste provisions of this 43359
chapter and rules adopted and orders and terms and conditions of 43360
permits, licenses, and variances issued under those provisions in 43361
the training and certification program as required by rules 43362
adopted under division (L) of section 3734.02 of the Revised Code; 43363

(9) Providing financial assistance to individual municipal 43364
corporations and townships within the district to defray their 43365
added costs of maintaining roads and other public facilities and 43366
of providing emergency and other public services resulting from 43367
the location and operation within their boundaries of a 43368
composting, energy or resource recovery, incineration, or 43369
recycling facility that either is owned by the district or is 43370
furnishing solid waste management facility or recycling services 43371

to the district pursuant to a contract or agreement with the board 43372
of county commissioners or directors of the district; 43373

(10) Payment of any expenses that are agreed to, awarded, or 43374
ordered to be paid under section 3734.35 of the Revised Code and 43375
of any administrative costs incurred pursuant to that section. In 43376
the case of a joint solid waste management district, if the board 43377
of county commissioners of one of the counties in the district is 43378
negotiating on behalf of affected communities, as defined in that 43379
section, in that county, the board shall obtain the approval of 43380
the board of directors of the district in order to expend moneys 43381
for administrative costs incurred. 43382

Prior to the approval of the district's solid waste 43383
management plan under section 3734.55 of the Revised Code, moneys 43384
in the special fund of the district arising from the fees shall be 43385
expended for those purposes in the manner prescribed by the solid 43386
waste management policy committee by resolution. 43387

Notwithstanding division (G)(6) of this section as it existed 43388
prior to October 29, 1993, or any provision in a district's solid 43389
waste management plan prepared in accordance with division 43390
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 43391
prior to that date, any moneys arising from the fees levied under 43392
division (B)(3) of this section prior to January 1, 1994, may be 43393
expended for any of the purposes authorized in divisions (G)(1) to 43394
(10) of this section. 43395

(H) The director shall adopt rules in accordance with Chapter 43396
119. of the Revised Code prescribing procedures for collecting and 43397
forwarding the fees levied under divisions (B) and (C) of this 43398
section to the boards of county commissioners or directors of 43399
county or joint solid waste management districts and to the 43400
treasurers or other officers of municipal corporations or to the 43401
clerks of townships. The rules also shall prescribe the dates for 43402

forwarding the fees to the boards and officials and may prescribe 43403
any other requirements the director considers necessary or 43404
appropriate to implement and administer divisions (A), (B), and 43405
(C) of this section. ~~Collection of the fees levied under division~~ 43406
~~(A)(1) of this section shall commence on July 1, 1993. Collection~~ 43407
~~of the fees levied under division (A)(2) of this section shall~~ 43408
~~commence on January 1, 1994.~~ 43409

Sec. 3734.573. (A) ~~For the purpose of preparing, revising,~~ 43410
~~and implementing the solid waste management plan of the district,~~ 43411
~~including, without limitation, the development and implementation~~ 43412
~~of solid waste recycling or reduction programs; providing~~ 43413
~~financial assistance to boards of health within the district, if~~ 43414
~~solid waste facilities are located in the district, for the~~ 43415
~~enforcement of this chapter and rules adopted and orders and terms~~ 43416
~~and conditions of permits, licenses, and variances issued under~~ 43417
~~it, other than the hazardous waste provisions of this chapter and~~ 43418
~~rules adopted and orders and terms and conditions of permits~~ 43419
~~issued under those provisions; providing financial assistance to~~ 43420
~~the county to defray the added costs of maintaining roads and~~ 43421
~~other public facilities and of providing emergency and other~~ 43422
~~public services resulting from the location and operation of a~~ 43423
~~solid waste facility within the county under the district's~~ 43424
~~approved plan or amended plan; paying the costs incurred by boards~~ 43425
~~of health for collecting and analyzing water samples from public~~ 43426
~~and private wells on lands adjacent to solid waste facilities that~~ 43427
~~are contained in the approved or amended plan of the district;~~ 43428
~~paying the costs of developing and implementing a program for the~~ 43429
~~inspection of solid wastes generated outside the boundaries of~~ 43430
~~this state that are disposed of at solid waste facilities included~~ 43431
~~in the district's approved plan or amended plan; providing~~ 43432
~~financial assistance to boards of health within the district for~~ 43433
~~enforcing laws prohibiting open dumping; providing financial~~ 43434

~~assistance to local law enforcement agencies within the district 43435
for enforcing laws and ordinances prohibiting littering; providing 43436
financial assistance to boards of health of health districts 43437
within the district that are on the approved list under section 43438
3734.08 of the Revised Code for the training and certification 43439
required for their employees responsible for solid waste 43440
enforcement by rules adopted under division (L) of section 3734.02 43441
of the Revised Code; providing financial assistance to individual 43442
municipal corporations and townships within the district to defray 43443
their added costs of maintaining roads and other public facilities 43444
and of providing emergency and other public services resulting 43445
from the location and operation within their boundaries of a 43446
composting, energy or resource recovery, incineration, or 43447
recycling facility that either is owned by the district or is 43448
furnishing solid waste management facility or recycling services 43449
to the district pursuant to a contract or agreement with the board 43450
of county commissioners or directors of the district; and paying 43451
any expenses provided for or incurred under section 3734.35 43452
purposes specified in division (G) of section 3734.57 of the 43453
Revised Code, the solid waste management policy committee of a 43454
county or joint solid waste management district may levy a fee on 43455
the generation of solid wastes within the district. 43456~~

The initial or amended solid waste management plan of the 43457
county or joint district approved under section 3734.521, 3734.55, 43458
or 3734.56 of the Revised Code, an amendment to the district's 43459
plan adopted under division (E) of section 3734.56 of the Revised 43460
Code, or the resolution adopted and ratified under division (B) of 43461
this section shall establish the rate of the fee levied under this 43462
division and shall specify whether the fee is levied on the basis 43463
of tons or cubic yards as the unit of measurement. 43464

(B) Prior to the approval under division (A) of section 43465
3734.56 of the Revised Code of the first amended plan that the 43466

district is required to submit for approval under that section, 43467
the approval of an initial plan under section 3734.521 of the 43468
Revised Code, the approval of an amended plan under section 43469
3734.521 or division (D) of section 3734.56 of the Revised Code, 43470
or the amendment of the district's plan under division (E) of 43471
section 3734.56 of the Revised Code, the solid waste management 43472
policy committee of a county or joint district that is operating 43473
under an initial plan approved under section 3734.55 of the 43474
Revised Code, or one for which approval of its initial plan is 43475
pending before the director of environmental protection on October 43476
29, 1993, under section 3734.55 of the Revised Code, may levy a 43477
fee under division (A) of this section by adopting and obtaining 43478
ratification of a resolution establishing the amount of the fee. A 43479
policy committee that, after December 1, 1993, concurrently 43480
proposes to levy a fee under division (A) of this section and to 43481
amend the fees levied by the district under divisions (B)(1) to 43482
(3) of section 3734.57 of the Revised Code may adopt and obtain 43483
ratification of one resolution proposing to do both. The 43484
requirements and procedures set forth in division (B) of section 43485
3734.57 of the Revised Code governing the adoption, amendment, and 43486
repeal of resolutions levying fees under divisions (B)(1) to (3) 43487
of that section, the ratification of those resolutions, and the 43488
notification of owners and operators of solid waste facilities 43489
required to collect fees levied under those divisions govern the 43490
adoption of the resolutions authorized to be adopted under this 43491
division, the ratification thereof, and the notification of owners 43492
and operators required to collect the fees, except as otherwise 43493
specifically provided in division (C) of this section. 43494

(C) Any initial or amended plan of a district adopted under 43495
section 3734.521 or 3734.56 of the Revised Code, or resolution 43496
adopted under division (B) of this section, that proposes to levy 43497
a fee under division (A) of this section that exceeds five dollars 43498

per ton shall be ratified in accordance with the provisions of 43499
section 3734.55 or division (B) of section 3734.57 of the Revised 43500
Code, as applicable, except that such an initial or amended plan 43501
or resolution shall be approved by a combination of municipal 43502
corporations and townships with a combined population within the 43503
boundaries of the district comprising at least seventy-five per 43504
cent, rather than at least sixty per cent, of the total population 43505
of the district. 43506

(D) The policy committee of a county or joint district may 43507
amend the fee levied by the district under division (A) of this 43508
section by adopting and obtaining ratification of a resolution 43509
establishing the amount of the amended fee. The policy committee 43510
may abolish the fee or an amended fee established under this 43511
division by adopting and obtaining ratification of a resolution 43512
proposing to repeal it. The requirements and procedures under 43513
division (B) and, if applicable, division (C) of this section 43514
govern the adoption and ratification of a resolution authorized to 43515
be adopted under this division and the notification of owners and 43516
operators of solid waste facilities required to collect the fees. 43517

(E) Collection of a fee or amended fee levied under division 43518
(A) or (D) of this section shall commence or cease in accordance 43519
with division (B) of section 3734.57 of the Revised Code. If a 43520
district is levying a fee under section 3734.572 of the Revised 43521
Code, collection of that fee shall cease on the date on which 43522
collection of the fee levied under division (A) of this section 43523
commences in accordance with division (B) of section 3734.57 of 43524
the Revised Code. 43525

(F) In the case of solid wastes that are taken to a solid 43526
waste transfer facility prior to being transported to a solid 43527
waste disposal facility for disposal, the fee levied under 43528
division (A) of this section shall be collected by the owner or 43529
operator of the transfer facility as a trustee for the district. 43530

In the case of solid wastes that are not taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility, the fee shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of. An owner or operator of a solid waste transfer or disposal facility who is required to collect the fee shall collect and forward the fee to the district in accordance with section 3734.57 of the Revised Code and rules adopted under division (H) of that section.

If the owner or operator of a solid waste transfer or disposal facility who did not receive notice pursuant to division (B) of this section to collect the fee levied by a district under division (A) of this section receives solid wastes generated in the district, the owner or operator, within thirty days after receiving the wastes, shall send written notice of that fact to the board of county commissioners or directors of the district. Within thirty days after receiving such a notice, the board of county commissioners or directors shall send written notice to the owner or operator indicating whether the district is levying a fee under division (A) of this section and, if so, the amount of the fee.

(G) Moneys received by a district levying a fee under division (A) of this section shall be credited to the special fund of the district created in division (G) of section 3734.57 of the Revised Code and shall be used exclusively for the purposes ~~set forth~~ specified in divisions (C)(1) to (10) of that section division. Prior to the approval under division (A) of section 3734.56 of the Revised Code of the first amended plan that the district is required to submit for approval under that section, the approval of an initial plan under section 3734.521 of the Revised Code, the approval of an amended plan under that section or division (D) of section 3734.56 of the Revised Code, or the

amendment of the district's plan under division (E) of section 43563
3734.56 of the Revised Code, moneys credited to the special fund 43564
arising from the fee levied pursuant to a resolution adopted and 43565
ratified under division (B) of this section shall be expended for 43566
those purposes in the manner prescribed by the solid waste 43567
management policy committee by resolution. 43568

(H) The fee levied under division (A) of this section does 43569
not apply to the management of solid wastes that: 43570

(1) Are disposed of at a facility owned by the generator of 43571
the wastes when the solid waste facility exclusively disposes of 43572
solid wastes generated at one or more premises owned by the 43573
generator regardless of whether the facility is located on a 43574
premises where the wastes were generated; 43575

(2) Are disposed of at facilities that exclusively dispose of 43576
wastes that are generated from the combustion of coal, or from the 43577
combustion of primarily coal in combination with scrap tires, that 43578
is not combined in any way with garbage at one or more premises 43579
owned by the generator. 43580

(I) When solid wastes that are burned in a disposal facility 43581
that is an incinerator or energy recovery facility are delivered 43582
to a solid waste transfer facility prior to being transported to 43583
the incinerator or energy recovery facility where they are burned, 43584
the fee levied under division (A) of this section shall be levied 43585
on the wastes delivered to the transfer facility. 43586

(J) When solid wastes that are burned in a disposal facility 43587
that is an incinerator or energy recovery facility are not 43588
delivered to a solid waste transfer facility prior to being 43589
transported to the incinerator or energy recovery facility where 43590
they are burned, the fee levied under division (A) of this section 43591
shall be levied on the wastes delivered to the incinerator or 43592
energy recovery facility. 43593

(K) The fee levied under division (A) of this section does 43594
not apply to sewage sludge that is generated by a waste water 43595
treatment facility holding a national pollutant discharge 43596
elimination system permit and that is disposed of through 43597
incineration, land application, or composting or at another 43598
resource recovery or disposal facility that is not a landfill. 43599

(L) The fee levied under division (A) of this section does 43600
not apply to yard waste delivered to a solid waste composting 43601
facility for processing or to a solid waste transfer facility. 43602

(M) The fee levied under division (A) of this section does 43603
not apply to materials separated from a mixed waste stream for 43604
recycling by the generator. 43605

(N) The director of environmental protection may issue an 43606
order exempting from the fees levied under this section solid 43607
wastes, including, but not limited to, scrap tires, that are 43608
generated, transferred, or disposed of as a result of a contract 43609
providing for the expenditure of public funds entered into by the 43610
administrator or regional administrator of the United States 43611
environmental protection agency, the director of environmental 43612
protection, or the director of administrative services on behalf 43613
of the director of environmental protection for the purpose of 43614
remediating conditions at a hazardous waste facility, solid waste 43615
facility, or other location at which the administrator or regional 43616
administrator or the director of environmental protection has 43617
reason to believe that there is a substantial threat to public 43618
health or safety or the environment or that the conditions are 43619
causing or contributing to air or water pollution or soil 43620
contamination. An order issued by the director of environmental 43621
protection under this division shall include a determination that 43622
the amount of fees not received by a solid waste management 43623
district as a result of the order will not adversely impact the 43624
implementation and financing of the district's approved solid 43625

waste management plan and any approved amendments to the plan. Such 43626
an order is a final action of the director of environmental 43627
protection. 43628

Sec. 3734.85. (A) On and after the effective date of the 43629
rules adopted under sections 3734.70, 3734.71, 3734.72, and 43630
3734.73 of the Revised Code, the director of environmental 43631
protection may take action under this section to abate 43632
accumulations of scrap tires. If the director determines that an 43633
accumulation of scrap tires constitutes a danger to the public 43634
health or safety or to the environment, ~~he~~ the director shall 43635
issue an order under section 3734.13 of the Revised Code to the 43636
person responsible for the accumulation of scrap tires directing 43637
that person, within one hundred twenty days after the issuance of 43638
the order, to remove the accumulation of scrap tires from the 43639
premises on which it is located and transport the tires to a scrap 43640
tire storage, monocell, monofill, or recovery facility licensed 43641
under section 3734.81 of the Revised Code, to such a facility in 43642
another state operating in compliance with the laws of the state 43643
in which it is located, or to any other solid waste disposal 43644
facility in another state that is operating in compliance with the 43645
laws of that state. If the person responsible for causing the 43646
accumulation of scrap tires is a person different from the owner 43647
of the land on which the accumulation is located, the director may 43648
issue such an order to the landowner. 43649

If the director is unable to ascertain immediately the 43650
identity of the person responsible for causing the accumulation of 43651
scrap tires, ~~he~~ the director shall examine the records of the 43652
applicable board of health and law enforcement agencies to 43653
ascertain that person's identity. Before initiating any 43654
enforcement or removal actions under this division against the 43655
owner of the land on which the accumulation is located, the 43656

director shall initiate any such actions against the person that 43657
he the director has identified as responsible for causing the 43658
accumulation of scrap tires. Failure of the director to make 43659
diligent efforts to ascertain the identity of the person 43660
responsible for causing the accumulation of scrap tires or to 43661
initiate an action against the person responsible for causing the 43662
accumulation shall not constitute an affirmative defense by a 43663
landowner to an enforcement action initiated by the director under 43664
this division requiring immediate removal of any accumulation of 43665
scrap tires. 43666

Upon the written request of the recipient of an order issued 43667
under this division, the director may extend the time for 43668
compliance with the order if the request demonstrates that the 43669
recipient has acted in good faith to comply with the order. If the 43670
recipient of an order issued under this division fails to comply 43671
with the order within one hundred twenty days after the issuance 43672
of the order or, if the time for compliance with the order was so 43673
extended, within that time, the director shall take such actions 43674
as ~~he~~ the director considers reasonable and necessary to remove 43675
and properly manage the scrap tires located on the land named in 43676
the order. The director, through employees of the environmental 43677
protection agency or a contractor, may enter upon the land on 43678
which the accumulation of scrap tires is located and remove and 43679
transport them to a scrap tire recovery facility for processing, 43680
to a scrap tire storage facility for storage, or to a scrap tire 43681
monocell or monofill facility for storage or disposal. 43682

The director shall enter into contracts with the owners or 43683
operators of scrap tire storage, monocell, monofill, or recovery 43684
facilities for the storage, disposal, or processing of scrap tires 43685
removed through removal operations conducted under this section. 43686
In doing so, the director shall give preference to scrap tire 43687
recovery facilities. 43688

If a person to whom a removal order is issued under this 43689
division fails to comply with the order and if the director 43690
performs a removal action under this section, the person to whom 43691
the removal order is issued is liable to the director for the 43692
costs incurred by the director for conducting the removal 43693
operation, storage at a scrap tire storage facility, storage or 43694
disposal at a scrap tire monocell or monofill facility, or 43695
processing of the scrap tires so removed, the transportation of 43696
the scrap tires from the site of the accumulation to the scrap 43697
tire storage, monocell, monofill, or recovery facility where the 43698
scrap tires were stored, disposed of, or processed, and the 43699
administrative and legal expenses incurred by the director in 43700
connection with the removal operation. The director shall keep an 43701
itemized record of those costs. Upon completion of the actions for 43702
which the costs were incurred, the director shall record the costs 43703
at the office of the county recorder of the county in which the 43704
accumulation of scrap tires was located. The costs so recorded 43705
constitute a lien on the property on which the accumulation of 43706
scrap tires was located until discharged. Upon the written request 43707
of the director, the attorney general shall bring a civil action 43708
against the person responsible for the accumulation of the scrap 43709
tires that were the subject of the removal operation to recover 43710
the costs of the removal operation. ~~If the director is unable to~~ 43711
~~recover those costs through such a civil action, he shall certify~~ 43712
~~them to the county recorder of the county in which the~~ 43713
~~accumulation of scrap tires was located. The recorder shall record~~ 43714
~~the costs so certified as a lien on the property on which the~~ 43715
~~accumulation of scrap tires was located, which costs shall be a~~ 43716
~~lien on the property until discharged~~ for which the person is 43717
liable under this division. Any money so received or recovered 43718
shall be credited to the scrap tire management fund created in 43719
section 3734.82 of the Revised Code. 43720

If, in a civil action brought under this division, an owner 43721
of real property is ordered to pay to the director the costs of a 43722
removal action that removed an accumulation of scrap tires from 43723
the person's land or if a lien is placed on the person's land for 43724
the costs of such a removal action, and, in either case, if the 43725
landowner was not the person responsible for causing the 43726
accumulation of scrap tires so removed, the landowner may bring a 43727
civil action against the person who was responsible for causing 43728
the accumulation to recover the amount of the removal costs that 43729
the court ordered the landowner to pay to the director or the 43730
amount of the removal costs certified to the county recorder as a 43731
lien on the landowner's property, whichever is applicable. If the 43732
landowner prevails in the civil action against the person who was 43733
responsible for causing the accumulation of scrap tires, the 43734
court, as it considers appropriate, may award to the landowner the 43735
reasonable attorney's fees incurred by the landowner for bringing 43736
the action, court costs, and other reasonable expenses incurred by 43737
the landowner in connection with the civil action. A landowner 43738
shall bring such a civil action within two years after making the 43739
final payment of the removal costs to the director pursuant to the 43740
judgment rendered against the landowner in the civil action 43741
brought under this division upon the director's request or within 43742
two years after the director certified the costs of the removal 43743
action to the county recorder, as appropriate. A person who, at 43744
the time that a removal action was conducted under this division, 43745
owned the land on which the removal action was performed may bring 43746
an action under this division to recover the costs of the removal 43747
action from the person responsible for causing the accumulation of 43748
scrap tires so removed regardless of whether the person owns the 43749
land at the time of bringing the action. 43750

Subject to the limitations set forth in division (G) of 43751
section 3734.82 of the Revised Code, the director may use moneys 43752

in the scrap tire management fund ~~created in that division~~ for 43753
conducting removal actions under this division. Any moneys 43754
recovered under this division shall be credited to the scrap tire 43755
management fund. 43756

(B) The director shall initiate enforcement and removal 43757
actions under division (A) of this section in accordance with the 43758
following descending listing of priorities: 43759

(1) Accumulations of scrap tires that the director finds 43760
constitute a fire hazard or threat to public health; 43761

(2) Accumulations of scrap tires determined by the director 43762
to contain more than one million scrap tires; 43763

(3) Accumulations of scrap tires in densely populated areas; 43764

(4) Other accumulations of scrap tires that the director or 43765
board of health of the health district in which the accumulation 43766
is located determines constitute a public nuisance; 43767

(5) Any other accumulations of scrap tires present on 43768
premises operating without a valid license issued under section 43769
3734.05 or 3734.81 of the Revised Code. 43770

(C) The director shall not take enforcement and removal 43771
actions under division (A) of this section against the owner or 43772
operator of, or the owner of the land on which is located, any of 43773
the following: 43774

(1) A premises where not more than one hundred scrap tires 43775
are present at any time; 43776

(2) The premises of a business engaging in the sale of tires 43777
at retail that meets either of the following criteria: 43778

(a) Not more than one thousand scrap tires are present on the 43779
premises at any time in an unsecured, uncovered outdoor location; 43780

(b) Any number of scrap tires are secured in a building or a 43781

covered, enclosed container, trailer, or installation.	43782
(3) The premises of a tire retreading business, a tire manufacturing finishing center, or a tire adjustment center on which is located a single, covered scrap tire storage area where not more than four thousand scrap tires are stored;	43783 43784 43785 43786
(4) The premises of a business that removes tires from motor vehicles in the ordinary course of business and on which is located a single scrap tire storage area that occupies not more than twenty-five hundred square feet;	43787 43788 43789 43790
(5) A solid waste facility licensed under section 3734.05 of the Revised Code that stores scrap tires on the surface of the ground if the total land area on which scrap tires are actually stored does not exceed ten thousand square feet;	43791 43792 43793 43794
(6) A premises where not more than two hundred fifty scrap tires are stored or kept for agricultural use;	43795 43796
(7) A construction site where scrap tires are stored for use or used in road resurfacing or the construction of embankments;	43797 43798
(8) A scrap tire collection, storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code;	43799 43800 43801
(9) A solid waste incineration or energy recovery facility that is subject to regulation under this chapter and that burns scrap tires;	43802 43803 43804
(10) A premises where scrap tires are beneficially used and for which the notice required by rules adopted under section 3734.84 of the Revised Code has been given;	43805 43806 43807
(11) A transporter registered under section 3734.83 of the Revised Code that collects and holds scrap tires in a covered trailer or vehicle for not longer than thirty days prior to transporting them to their final destination.	43808 43809 43810 43811

(D) Nothing in this section restricts any right any person 43812
may have under statute or common law to enforce or seek 43813
enforcement of any law applicable to the management of scrap 43814
tires, abate a nuisance, or seek any other appropriate relief. 43815

(E) An owner of real property upon which there is located an 43816
accumulation of not more than two thousand scrap tires is not 43817
liable under division (A) of this section for the cost of the 43818
removal of the scrap tires, and no lien shall attach to the 43819
property under this section, if all of the following conditions 43820
are met: 43821

(1) The tires were placed on the property after the owner 43822
acquired title to the property, or the tires were placed on the 43823
property before the owner acquired title to the property and the 43824
owner acquired title to the property by bequest or devise. 43825

(2) The owner of the property did not have knowledge that the 43826
tires were being placed on the property, or the owner posted on 43827
the property signs prohibiting dumping or took other action to 43828
prevent the placing of tires on the property. 43829

(3) The owner of the property did not participate in or 43830
consent to the placing of the tires on the property. 43831

(4) The owner of the property received no financial benefit 43832
from the placing of the tires on the property or otherwise having 43833
the tires on the property. 43834

(5) Title to the property was not transferred to the owner 43835
for the purpose of evading liability under division (A) of this 43836
section. 43837

(6) The person responsible for placing the tires on the 43838
property, in doing so, was not acting as an agent for the owner of 43839
the property. 43840

Sec. 3734.901. (A)(1) For the purpose of providing revenue to 43841

defray the cost of administering and enforcing the scrap tire 43842
provisions of this chapter, rules adopted under those provisions, 43843
and terms and conditions of orders, variances, and licenses issued 43844
under those provisions; to abate accumulations of scrap tires; to 43845
make grants to promote research regarding alternative methods of 43846
recycling scrap tires and loans to promote the recycling or 43847
recovery of energy from scrap tires; and to defray the costs of 43848
administering and enforcing sections 3734.90 to 3734.9014 of the 43849
Revised Code, a fee of fifty cents per tire is hereby levied on 43850
the sale of tires. The fee is levied from the first day of the 43851
calendar month that begins next after thirty days from October 29, 43852
1993, through June 30, ~~2006~~ 2011. 43853

(2) Beginning on ~~the effective date of this section~~ September 43854
5, 2001, and ending on June 30, 2011, there is hereby levied an 43855
additional fee of fifty cents per tire on the sale of tires the 43856
proceeds of which shall be deposited in the state treasury to the 43857
credit of the scrap tire management fund created in section 43858
3734.82 of the Revised Code and be used exclusively for the 43859
purposes specified in division (G)(3) of that section. 43860

(B) Only one sale of the same article shall be used in 43861
computing the amount of the fee due. 43862

Sec. 3734.9010. ~~Four~~ Two per cent of all amounts paid to the 43863
treasurer of state pursuant to sections 3734.90 to 3734.9014 of 43864
the Revised Code shall be certified directly to the credit of the 43865
tire fee administrative fund, which is hereby created in the state 43866
treasury, for appropriation to the department of taxation for use 43867
in administering those sections. The remainder of the amounts paid 43868
to the treasurer of state shall be deposited to the credit of the 43869
scrap tire management fund created in section 3734.82 of the 43870
Revised Code. 43871

Sec. 3735.27. (A) Whenever the director of development has 43872
determined that there is need for a housing authority in any 43873
portion of any county that comprises two or more political 43874
subdivisions or portions of two or more political subdivisions but 43875
is less than all the territory within the county, a metropolitan 43876
housing authority shall be declared to exist, and the territorial 43877
limits of the authority shall be defined, by a letter from the 43878
director. The director shall issue a determination from the 43879
department of development declaring that there is need for a 43880
housing authority within those territorial limits after finding 43881
either of the following: 43882

(1) Unsanitary or unsafe inhabited housing accommodations 43883
exist in that area; 43884

(2) There is a shortage of safe and sanitary housing 43885
accommodations in that area available to persons who lack the 43886
amount of income that is necessary, as determined by the director, 43887
to enable them, without financial assistance, to live in decent, 43888
safe, and sanitary dwellings without congestion. 43889

In determining whether dwelling accommodations are unsafe or 43890
unsanitary, the director may take into consideration the degree of 43891
congestion, the percentage of land coverage, the light, air, 43892
space, and access available to the inhabitants of the dwelling 43893
accommodations, the size and arrangement of rooms, the sanitary 43894
facilities, and the extent to which conditions exist in the 43895
dwelling accommodations that endanger life or property by fire or 43896
other causes. 43897

The territorial limits of a metropolitan housing authority as 43898
defined by the director under this division shall be fixed for the 43899
authority upon proof of a letter from the director declaring the 43900
need for the authority to function in those territorial limits. 43901
Any such letter from the director, any certificate of 43902

determination issued by the director, and any certificate of 43903
appointment of members of the authority shall be admissible in 43904
evidence in any suit, action, or proceeding. 43905

A certified copy of the letter from the director declaring 43906
the existence of a metropolitan housing authority and the 43907
territorial limits of its district shall be immediately forwarded 43908
to each appointing authority. A metropolitan housing authority 43909
shall consist of members who are residents of the territory in 43910
which they serve. 43911

(B)(1) Except as otherwise provided in division (C), (D), or 43912
(E) of this section, the members of a metropolitan housing 43913
authority shall be appointed as follows: 43914

(a)(i) In a district in a county in which a charter has been 43915
adopted under Article X, Section 3 of the Ohio Constitution, and 43916
in which the most populous city is not the city with the largest 43917
ratio of housing units owned or managed by the authority to 43918
population, one member shall be appointed by the probate court, 43919
one member shall be appointed by the court of common pleas, one 43920
member shall be appointed by the board of county commissioners, 43921
one member shall be appointed by the chief executive officer of 43922
the city that has the largest ratio of housing units owned or 43923
managed by the authority to population, and two members shall be 43924
appointed by the chief executive officer of the most populous city 43925
in the district. 43926

(ii) If, in a district that appoints members pursuant to 43927
division (B)(1)(a) of this section, the most populous city becomes 43928
the city with the largest ratio of housing units owned or managed 43929
by the authority to population, when the term of office of the 43930
member who was appointed by the chief executive officer of the 43931
city with the largest ratio expires, that member shall not be 43932
reappointed, and the membership of the authority shall be as 43933

described in division (B)(1)(b) of this section. 43934

(b) In any district other than one described in division 43935
(B)(1)(a) of this section, one member shall be appointed by the 43936
probate court, one member shall be appointed by the court of 43937
common pleas, one member shall be appointed by the board of county 43938
commissioners, and two members shall be appointed by the chief 43939
executive officer of the most populous city in the district. 43940

(2) At the time of the initial appointment of the authority, 43941
the member appointed by the probate court shall be appointed for a 43942
period of four years, the member appointed by the court of common 43943
pleas shall be appointed for three years, the member appointed by 43944
the board of county commissioners shall be appointed for two 43945
years, one member appointed by the chief executive officer of the 43946
most populous city in the district shall be appointed for one 43947
year, and the other member appointed by the chief executive 43948
officer of the most populous city in the district shall be 43949
appointed for five years. 43950

If appointments are made under division (B)(1)(a) of this 43951
section, the member appointed by the chief executive officer of 43952
the city in the district that is not the most populous city, but 43953
that has the largest ratio of housing units owned or managed by 43954
the authority to population, shall be appointed for five years. 43955

After the initial appointments, all members of the authority 43956
shall be appointed for five-year terms, and any vacancy occurring 43957
upon the expiration of a term shall be filled by the appointing 43958
authority that made the initial appointment. 43959

(3) For purposes of this division, population shall be 43960
determined according to the last preceding federal census. 43961

(C) For any metropolitan housing authority district that 43962
contained, as of the 1990 federal census, a population of at least 43963
one million, two members of the authority shall be appointed by 43964

the legislative authority of the most populous city in the 43965
district, two members shall be appointed by the chief executive 43966
officer of the most populous city in the district, and one member 43967
shall be appointed by the chief executive officer, with the 43968
approval of the legislative authority, of the city in the district 43969
that has the second highest number of housing units owned or 43970
managed by the authority. 43971

At the time of the initial appointment of the authority, one 43972
member appointed by the legislative authority of the most populous 43973
city in the district shall be appointed for three years, and one 43974
such member shall be appointed for one year; the member appointed 43975
by the chief executive officer of the city with the second highest 43976
number of housing units owned or managed by the authority shall be 43977
appointed, with the approval of the legislative authority, for 43978
three years; and one member appointed by the chief executive 43979
officer of the most populous city in the district shall be 43980
appointed for three years, and one such member shall be appointed 43981
for one year. Thereafter, all members of the authority shall be 43982
appointed for three-year terms, and any vacancy shall be filled by 43983
the same appointing power that made the initial appointment. At 43984
the expiration of the term of any member appointed by the chief 43985
executive officer of the most populous city in the district before 43986
March 15, 1983, the chief executive officer of the most populous 43987
city in the district shall fill the vacancy by appointment for a 43988
three-year term. At the expiration of the term of any member 43989
appointed by the board of county commissioners before March 15, 43990
1983, the chief executive officer of the city in the district with 43991
the second highest number of housing units owned or managed by the 43992
authority shall, with the approval of the municipal legislative 43993
authority, fill the vacancy by appointment for a three-year term. 43994
At the expiration of the term of any member appointed before March 43995
15, 1983, by the court of common pleas or the probate court, the 43996

legislative authority of the most populous city in the district 43997
shall fill the vacancy by appointment for a three-year term. 43998

After March 15, 1983, at least one of the members appointed 43999
by the chief executive officer of the most populous city shall be 44000
a resident of a dwelling unit owned or managed by the authority. 44001
At least one of the initial appointments by the chief executive 44002
officer of the most populous city, after March 15, 1983, shall be 44003
a resident of a dwelling unit owned or managed by the authority. 44004
Thereafter, any member appointed by the chief executive officer of 44005
the most populous city for the term established by this initial 44006
appointment, or for any succeeding term, shall be a person who 44007
resides in a dwelling unit owned or managed by the authority. If 44008
there is an elected, representative body of all residents of the 44009
authority, the chief executive officer of the most populous city 44010
shall, whenever there is a vacancy in this resident term, provide 44011
written notice of the vacancy to the representative body. If the 44012
representative body submits to the chief executive officer of the 44013
most populous city, in writing and within sixty days after the 44014
date on which it was notified of the vacancy, the names of at 44015
least five residents of the authority who are willing and 44016
qualified to serve as a member, the chief executive officer of the 44017
most populous city shall appoint to the resident term one of the 44018
residents recommended by the representative body. At no time shall 44019
residents constitute a majority of the members of the authority. 44020

(D)(1) For any metropolitan housing authority district 44021
located in a county that had, as of the 2000 federal census, a 44022
population of at least four hundred thousand and no city with a 44023
population greater than thirty per cent of the total population of 44024
the county, one member of the authority shall be appointed by the 44025
probate court, one member shall be appointed by the court of 44026
common pleas, one member shall be appointed by the chief executive 44027
officer of the most populous city in the district, and two members 44028

shall be appointed by the board of county commissioners. 44029

(2) At the time of the initial appointment of a metropolitan 44030
housing authority pursuant to this division, the member appointed 44031
by the probate court shall be appointed for a period of four 44032
years, the member appointed by the court of common pleas shall be 44033
appointed for three years, the member appointed by the chief 44034
executive officer of the most populous city shall be appointed for 44035
two years, one member appointed by the board of county 44036
commissioners shall be appointed for one year, and the other 44037
member appointed by the board of county commissioners shall be 44038
appointed for five years. Thereafter, all members of the authority 44039
shall be appointed for five-year terms, with each term ending on 44040
the same day of the same month as the term that it succeeds. 44041
Vacancies shall be filled in the manner provided in the original 44042
appointments. Any member appointed to fill a vacancy occurring 44043
prior to the expiration of the term shall hold office as a member 44044
for the remainder of that term. 44045

(E)(1) ~~An additional two members~~ One resident member shall be 44046
appointed to ~~the a~~ metropolitan housing authority ~~in any district~~ 44047
~~that has three hundred or more assisted housing units and that~~ 44048
~~does not have at least one resident as a member of its authority.~~ 44049
~~For the purposes of this section, an "assisted unit" is a housing~~ 44050
~~unit owned or operated by the housing authority or a unit in which~~ 44051
~~the occupants receive tenant based housing assistance through the~~ 44052
~~federal section 8 housing program, 24 C.F.R. Ch VIII, and, a~~ 44053
~~"resident" is a person who lives in an assisted housing unit~~ when 44054
required by federal law. The 44055

~~(2) The chief executive officer of the most populous city in~~ 44056
~~the district shall appoint an additional member who is a~~ that 44057
resident member ~~for an initial a~~ term of five years. ~~The board of~~ 44058
~~county commissioners shall appoint the other additional member,~~ 44059
~~who need not be a resident, for an initial term of three years.~~ 44060

~~After the initial term, the terms of both members~~ Subsequent terms 44061
~~of that resident member also shall be for five years, and~~ 44062
~~vacancies~~ any vacancy in the position of the resident member shall 44063
be filled ~~in the manner provided for original appointments by the~~ 44064
chief executive officer of the most populous city in the district. 44065
Any member appointed to fill such a vacancy ~~occurring prior to the~~ 44066
~~expiration of the term for which the member's predecessor was~~ 44067
~~appointed~~ shall hold office as a resident member for the remainder 44068
of that term. If, at any time, 44069

~~(3) A member appointed as a resident member who no longer~~ 44070
~~qualifies as a resident shall be deemed unable to serve, and~~ 44071
another resident member shall be appointed by the appointing 44072
authority who originally appointed the resident member to serve 44073
for the unexpired portion of that term. 44074

(2) On and after the effective date of this amendment, any 44075
metropolitan housing authority to which two additional members 44076
were appointed pursuant to former division (E)(1) of this section 44077
as enacted by Amended Substitute House Bill No. 95 of the 125th 44078
general assembly shall continue to have those additional members. 44079
Their terms shall be for five years, and vacancies in their 44080
positions shall be filled in the manner provided for their 44081
original appointment under former division (E)(1) of this section 44082
as so enacted. 44083

(F) Public officials, other than the officers having the 44084
appointing power under this section, shall be eligible to serve as 44085
members, officers, or employees of a metropolitan housing 44086
authority notwithstanding any statute, charter, or law to the 44087
contrary. Not more than two such public officials shall be members 44088
of the authority at any one time. 44089

All members of an authority shall serve without compensation 44090
but shall be entitled to be reimbursed for all necessary expenses 44091
incurred. 44092

After a metropolitan housing authority district is formed, 44093
the director may enlarge the territory within the district to 44094
include other political subdivisions, or portions of other 44095
political subdivisions, but the territorial limits of the district 44096
shall be less than that of the county. 44097

(G)(1) Any vote taken by a metropolitan housing authority 44098
shall require a majority affirmative vote to pass. A tie vote 44099
shall constitute a defeat of any measure receiving equal numbers 44100
of votes for and against it. 44101

(2) The members of a metropolitan housing authority shall act 44102
in the best interest of the district and shall not act solely as 44103
representatives of their respective appointing authorities. 44104

Sec. 3743.01. As used in this chapter: 44105

(A) "Beer" and "intoxicating liquor" have the same meanings 44106
as in section 4301.01 of the Revised Code. 44107

(B) "Booby trap" means a small tube that has a string 44108
protruding from both ends, that has a friction-sensitive 44109
composition, and that is ignited by pulling the ends of the 44110
string. 44111

(C) "Cigarette load" means a small wooden peg that is coated 44112
with a small quantity of explosive composition and that is ignited 44113
in a cigarette. 44114

(D)(1) "1.3G fireworks" means display fireworks consistent 44115
with regulations of the United States department of transportation 44116
as expressed using the designation "division 1.3" in Title 49, 44117
Code of Federal Regulations. 44118

(2) "1.4G fireworks" means consumer fireworks consistent with 44119
regulations of the United States department of transportation as 44120
expressed using the designation "division 1.4" in Title 49, Code 44121
of Federal Regulations. 44122

(E) "Controlled substance" has the same meaning as in section 44123
3719.01 of the Revised Code. 44124

(F) "Fireworks" means any composition or device prepared for 44125
the purpose of producing a visible or an audible effect by 44126
combustion, deflagration, or detonation, except ordinary matches 44127
and except as provided in section 3743.80 of the Revised Code. 44128

(G) "Fireworks plant" means all buildings and other 44129
structures in which the manufacturing of fireworks, or the storage 44130
or sale of manufactured fireworks by a manufacturer, takes place. 44131

(H) "Highway" means any public street, road, alley, way, 44132
lane, or other public thoroughfare. 44133

(I) "Licensed exhibitor of fireworks" or "licensed exhibitor" 44134
means a person licensed pursuant to sections 3743.50 to 3743.55 of 44135
the Revised Code. 44136

(J) "Licensed manufacturer of fireworks" or "licensed 44137
manufacturer" means a person licensed pursuant to sections 3743.02 44138
to 3743.08 of the Revised Code. 44139

(K) "Licensed wholesaler of fireworks" or "licensed 44140
wholesaler" means a person licensed pursuant to sections 3743.15 44141
to 3743.21 of the Revised Code. 44142

(L) "List of licensed exhibitors" means the list required by 44143
division (C) of section 3743.51 of the Revised Code. 44144

(M) "List of licensed manufacturers" means the list required 44145
by division (C) of section 3743.03 of the Revised Code. 44146

(N) "List of licensed wholesalers" means the list required by 44147
division (C) of section 3743.16 of the Revised Code. 44148

(O) "Manufacturing of fireworks" means the making of 44149
fireworks from raw materials, none of which in and of themselves 44150
constitute a fireworks, or the processing of fireworks. 44151

(P) "Navigable waters" means any body of water susceptible of being used in its ordinary condition as a highway of commerce over which trade and travel is or may be conducted in the customary modes, but does not include a body of water that is not capable of navigation by barges, tugboats, and other large vessels.

(Q) "Novelties and trick noisemakers" include the following items:

(1) Devices that produce a small report intended to surprise the user, including, but not limited to, booby traps, cigarette loads, party poppers, and snappers;

(2) Snakes or glow worms;

(3) Smoke devices;

(4) Trick matches.

(R) "Party popper" means a small plastic or paper item that contains not more than sixteen milligrams of friction-sensitive explosive composition, that is ignited by pulling a string protruding from the item, and from which paper streamers are expelled when the item is ignited.

(S) "Processing of fireworks" means the making of fireworks from materials all or part of which in and of themselves constitute a fireworks, but does not include the mere packaging or repackaging of fireworks.

(T) "Railroad" means any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs, and sidings installed and primarily used in serving a mine, quarry, or plant.

(U) "Retail sale" or "sell at retail" means a sale of fireworks to a purchaser who intends to use the fireworks, and not resell them.

(V) "Smoke device" means a tube or sphere that contains

pyrotechnic composition that, upon ignition, produces white or
colored smoke as the primary effect.

(W) "Snake or glow worm" means a device that consists of a
pressed pellet of pyrotechnic composition that produces a large,
snake-like ash upon burning, which ash expands in length as the
pellet burns.

(X) "Snapper" means a small, paper-wrapped item that contains
a minute quantity of explosive composition coated on small bits of
sand, and that, when dropped, implodes.

(Y) "Trick match" means a kitchen or book match that is
coated with a small quantity of explosive composition and that,
upon ignition, produces a small report or a shower of sparks.

(Z) "Wire sparkler" means a sparkler consisting of a wire or
stick coated with a nonexplosive pyrotechnic mixture that produces
a shower of sparks upon ignition and that contains no more than
one hundred grams of this mixture.

(AA) "Wholesale sale" or "sell at wholesale" means a sale of
fireworks to a purchaser who intends to resell the fireworks so
purchased.

(BB) "Licensed premises" means the real estate upon which a
licensed manufacturer or wholesaler of fireworks conducts
business.

(CC) "Licensed building" means a building on the licensed
premises of a licensed manufacturer or wholesaler of fireworks
that is approved for occupancy by the building official having
jurisdiction.

(DD) "Fireworks incident" means any action or omission that
occurs at a fireworks exhibition, that results in injury or death,
or a substantial risk of injury or death, to any person, and that
involves either of the following:

(1) The handling or other use, or the results of the handling 44212
or other use, of fireworks or associated equipment or other 44213
materials; 44214

(2) The failure of any person to comply with any applicable 44215
requirement imposed by this chapter or any applicable rule adopted 44216
under this chapter. 44217

(EE) "Discharge site" means an area immediately surrounding 44218
the mortars used to fire aerial shells. 44219

(FF) "Fireworks incident site" means a discharge site or 44220
other location at a fireworks exhibition where a fireworks 44221
incident occurs, a location where an injury or death associated 44222
with a fireworks incident occurs, or a location where evidence of 44223
a fireworks incident or an injury or death associated with a 44224
fireworks incident is found. 44225

(GG) "Storage location" means a single parcel or contiguous 44226
parcels of real estate approved by the fire marshal pursuant to 44227
division (I) of section 3743.04 of the Revised Code or division 44228
(G) of section 3743.17 of the Revised Code that are separate from 44229
a licensed premises containing a retail showroom, and which parcel 44230
or parcels a licensed manufacturer or wholesaler of fireworks may 44231
use only for the distribution, possession, and storage of 44232
fireworks in accordance with this chapter. 44233

Sec. 3743.02. (A) Any person who wishes to manufacture 44234
fireworks in this state shall submit to the fire marshal an 44235
application for licensure as a manufacturer of fireworks before 44236
the first day of October of each year. The application shall be 44237
submitted prior to the operation of a fireworks plant, shall be on 44238
a form prescribed by the fire marshal, shall contain all 44239
information required by this section or requested by the fire 44240
marshal, and shall be accompanied by the license fee, 44241

fingerprints, and proof of insurance coverage described in 44242
division (B) of this section. 44243

The fire marshal shall prescribe a form for applications for 44244
licensure as a manufacturer of fireworks and make a copy of the 44245
form available, upon request, to persons who seek that licensure. 44246

(B) An applicant for licensure as a manufacturer of fireworks 44247
shall submit with the application all of the following: 44248

(1) A license fee of two thousand seven hundred fifty 44249
dollars, which the fire marshal shall use to pay for fireworks 44250
safety education, training programs, and inspections~~r~~. If the 44251
applicant has any storage locations approved in accordance with 44252
division (I) of section 3743.04 of the Revised Code, the applicant 44253
also shall submit a fee of one hundred dollars per storage 44254
location for the inspection of each storage location. 44255

(2) Proof of comprehensive general liability insurance 44256
coverage, specifically including fire and smoke casualty on 44257
premises and products, in an amount not less than one million 44258
dollars for each occurrence for bodily injury liability and 44259
wrongful death liability at the fireworks plant. All applicants 44260
shall submit evidence of comprehensive general liability insurance 44261
coverage verified by the insurer and certified as to its provision 44262
of the minimum coverage required under this division. 44263

(3) One complete set of the applicant's fingerprints and a 44264
complete set of fingerprints of any individual holding, owning, or 44265
controlling a five per cent or greater beneficial or equity 44266
interest in the applicant for the license. 44267

(C) A separate application for licensure as a manufacturer of 44268
fireworks shall be submitted for each fireworks plant that a 44269
person wishes to operate in this state. 44270

(D) If an applicant intends to include the processing of 44271
fireworks as any part of its proposed manufacturing of fireworks, 44272

a statement indicating that intent shall be included in its 44273
application for licensure. 44274

Sec. 3743.04. (A) The license of a manufacturer of fireworks 44275
is effective for one year beginning on the first day of December. 44276
The fire marshal shall issue or renew a license only on that date 44277
and at no other time. If a manufacturer of fireworks wishes to 44278
continue manufacturing fireworks at the designated fireworks plant 44279
after its then effective license expires, it shall apply no later 44280
than the first day of October for a new license pursuant to 44281
section 3743.02 of the Revised Code. The fire marshal shall send a 44282
written notice of the expiration of its license to a licensed 44283
manufacturer at least three months before the expiration date. 44284

(B) If, during the effective period of its licensure, a 44285
licensed manufacturer of fireworks wishes to construct, locate, or 44286
relocate any buildings or other structures on the premises of its 44287
fireworks plant, to make any structural change or renovation in 44288
any building or other structure on the premises of its fireworks 44289
plant, or to change the nature of its manufacturing of fireworks 44290
so as to include the processing of fireworks, the manufacturer 44291
shall notify the fire marshal in writing. The fire marshal may 44292
require a licensed manufacturer also to submit documentation, 44293
including, but not limited to, plans covering the proposed 44294
construction, location, relocation, structural change or 44295
renovation, or change in manufacturing of fireworks, if the fire 44296
marshal determines the documentation is necessary for evaluation 44297
purposes in light of the proposed construction, location, 44298
relocation, structural change or renovation, or change in 44299
manufacturing of fireworks. 44300

Upon receipt of the notification and additional documentation 44301
required by the fire marshal, the fire marshal shall inspect the 44302
premises of the fireworks plant to determine if the proposed 44303

construction, location, relocation, structural change or 44304
renovation, or change in manufacturing of fireworks conforms to 44305
sections 3743.02 to 3743.08 of the Revised Code and the rules 44306
adopted by the fire marshal pursuant to section 3743.05 of the 44307
Revised Code. The fire marshal shall issue a written authorization 44308
to the manufacturer for the construction, location, relocation, 44309
structural change or renovation, or change in manufacturing of 44310
fireworks if the fire marshal determines, upon the inspection and 44311
a review of submitted documentation, that the construction, 44312
location, relocation, structural change or renovation, or change 44313
in manufacturing of fireworks conforms to those sections and 44314
rules. Upon authorizing a change in manufacturing of fireworks to 44315
include the processing of fireworks, the fire marshal shall make 44316
notations on the manufacturer's license and in the list of 44317
licensed manufacturers in accordance with section 3743.03 of the 44318
Revised Code. 44319

On or before June 1, 1998, a licensed manufacturer shall 44320
install, in every licensed building in which fireworks are 44321
manufactured, stored, or displayed and to which the public has 44322
access, interlinked fire detection, smoke exhaust, and smoke 44323
evacuation systems that are approved by the superintendent of the 44324
division of industrial compliance, and shall comply with floor 44325
plans showing occupancy load limits and internal circulation and 44326
egress patterns that are approved by the fire marshal and 44327
superintendent, and that are submitted under seal as required by 44328
section 3791.04 of the Revised Code. Notwithstanding section 44329
3743.59 of the Revised Code, the construction and safety 44330
requirements established in this division are not subject to any 44331
variance, waiver, or exclusion. 44332

(C) The license of a manufacturer of fireworks authorizes the 44333
manufacturer to engage only in the following activities: 44334

(1) The manufacturing of fireworks on the premises of the 44335

fireworks plant as described in the application for licensure or 44336
in the notification submitted under division (B) of this section, 44337
except that a licensed manufacturer shall not engage in the 44338
processing of fireworks unless authorized to do so by its license. 44339

(2) To possess for sale at wholesale and sell at wholesale 44340
the fireworks manufactured by the manufacturer, to persons who are 44341
licensed wholesalers of fireworks, to out-of-state residents in 44342
accordance with section 3743.44 of the Revised Code, to residents 44343
of this state in accordance with section 3743.45 of the Revised 44344
Code, or to persons located in another state provided the 44345
fireworks are shipped directly out of this state to them by the 44346
manufacturer. A person who is licensed as a manufacturer of 44347
fireworks on June 14, 1988, also may possess for sale and sell 44348
pursuant to division (C)(2) of this section fireworks other than 44349
those the person manufactures. The possession for sale shall be on 44350
the premises of the fireworks plant described in the application 44351
for licensure or in the notification submitted under division (B) 44352
of this section, and the sale shall be from the inside of a 44353
licensed building and from no other structure or device outside a 44354
licensed building. At no time shall a licensed manufacturer sell 44355
any class of fireworks outside a licensed building. 44356

(3) Possess for sale at retail and sell at retail the 44357
fireworks manufactured by the manufacturer, other than 1.4G 44358
fireworks as designated by the fire marshal in rules adopted 44359
pursuant to division (A) of section 3743.05 of the Revised Code, 44360
to licensed exhibitors in accordance with sections 3743.50 to 44361
3743.55 of the Revised Code, and possess for sale at retail and 44362
sell at retail the fireworks manufactured by the manufacturer, 44363
including 1.4G fireworks, to out-of-state residents in accordance 44364
with section 3743.44 of the Revised Code, to residents of this 44365
state in accordance with section 3743.45 of the Revised Code, or 44366
to persons located in another state provided the fireworks are 44367

shipped directly out of this state to them by the manufacturer. A 44368
person who is licensed as a manufacturer of fireworks on June 14, 44369
1988, may also possess for sale and sell pursuant to division 44370
(C)(3) of this section fireworks other than those the person 44371
manufactures. The possession for sale shall be on the premises of 44372
the fireworks plant described in the application for licensure or 44373
in the notification submitted under division (B) of this section, 44374
and the sale shall be from the inside of a licensed building and 44375
from no other structure or device outside a licensed building. At 44376
no time shall a licensed manufacturer sell any class of fireworks 44377
outside a licensed building. 44378

A licensed manufacturer of fireworks shall sell under 44379
division (C) of this section only fireworks that meet the 44380
standards set by the consumer product safety commission or by the 44381
American fireworks standard laboratories or that have received an 44382
EX number from the United States department of transportation. 44383

(D) The license of a manufacturer of fireworks shall be 44384
protected under glass and posted in a conspicuous place on the 44385
premises of the fireworks plant. Except as otherwise provided in 44386
this division, the license is not transferable or assignable. A 44387
license may be transferred to another person for the same 44388
fireworks plant for which the license was issued if the assets of 44389
the plant are transferred to that person by inheritance or by a 44390
sale approved by the fire marshal. The license is subject to 44391
revocation in accordance with section 3743.08 of the Revised Code. 44392

(E) The fire marshal shall not place the license of a 44393
manufacturer of fireworks in a temporarily inactive status while 44394
the holder of the license is attempting to qualify to retain the 44395
license. 44396

(F) Each licensed manufacturer of fireworks that possesses 44397
fireworks for sale and sells fireworks under division (C) of 44398

section 3743.04 of the Revised Code, or a designee of the
manufacturer, whose identity is provided to the fire marshal by
the manufacturer, annually shall attend a continuing education
program consisting of not less than eight hours of instruction.
The fire marshal shall develop the program and the fire marshal or
a person or public agency approved by the fire marshal shall
conduct it. A licensed manufacturer or the manufacturer's designee
who attends a program as required under this division, within one
year after attending the program, shall conduct in-service
training for other employees of the licensed manufacturer
regarding the information obtained in the program. A licensed
manufacturer shall provide the fire marshal with notice of the
date, time, and place of all in-service training not less than
thirty days prior to an in-service training event.

(G) A licensed manufacturer shall maintain comprehensive
general liability insurance coverage in the amount and type
specified under division (B)(2) of section 3743.02 of the Revised
Code at all times. Each policy of insurance required under this
division shall contain a provision requiring the insurer to give
not less than fifteen days' prior written notice to the fire
marshal before termination, lapse, or cancellation of the policy,
or any change in the policy that reduces the coverage below the
minimum required under this division. Prior to canceling or
reducing the amount of coverage of any comprehensive general
liability insurance coverage required under this division, a
licensed manufacturer shall secure supplemental insurance in an
amount and type that satisfies the requirements of this division
so that no lapse in coverage occurs at any time. A licensed
manufacturer who secures supplemental insurance shall file
evidence of the supplemental insurance with the fire marshal prior
to canceling or reducing the amount of coverage of any
comprehensive general liability insurance coverage required under

this division.

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(H) The fire marshal shall adopt rules for the expansion or contraction of a licensed premises and for approval of such expansions or contractions. The boundaries of a licensed premises, including any geographic expansion or contraction of those boundaries, shall be approved by the fire marshal in accordance with rules the fire marshal adopts. If the licensed premises consists of more than one parcel of real estate, those parcels shall be contiguous unless an exception is allowed pursuant to division (I) of this section.

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(I)(1) A licensed manufacturer may expand its licensed premises within this state to include not more than two storage locations that are located upon one or more real estate parcels that are noncontiguous to the licensed premises as that licensed premises exists on the date a licensee submits an application as described below, if all of the following apply:

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(a) The licensee submits an application to the fire marshal and an application fee of one hundred dollars per storage location for which the licensee is requesting approval.

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(b) The identity of the holder of the license remains the same at the storage location.

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(c) The storage location has received a valid certificate of zoning compliance as applicable and a valid certificate of occupancy for each building or structure at the storage location issued by the authority having jurisdiction to issue the certificate for the storage location, and those certificates permit the distribution and storage of fireworks regulated under this chapter at the storage location and in the buildings or structures. The storage location shall be in compliance with all other applicable federal, state, and local laws and regulations.

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(d) Every building or structure located upon the storage

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location is separated from occupied residential and nonresidential 44462
buildings or structures, railroads, highways, or any other 44463
buildings or structures on the licensed premises in accordance 44464
with the distances specified in the rules adopted by the fire 44465
marshal pursuant to section 3743.05 of the Revised Code. 44466

(e) Neither the licensee nor any person holding, owning, or 44467
controlling a five per cent or greater beneficial or equity 44468
interest in the licensee has been convicted of or pleaded guilty 44469
to a felony under the laws of this state, any other state, or the 44470
United States, after the effective date of this amendment. 44471

(f) The fire marshal approves the application for expansion. 44472

(2) The fire marshal shall approve an application for 44473
expansion requested under division (I)(1) of this section if the 44474
fire marshal receives the application fee and proof that the 44475
requirements of divisions (I)(1)(b) to (e) of this section are 44476
satisfied. The storage location shall be considered part of the 44477
original licensed premises and shall use the same distinct number 44478
assigned to the original licensed premises with any additional 44479
designations as the fire marshal deems necessary in accordance 44480
with section 3743.03 of the Revised Code. 44481

(J)(1) A licensee who obtains approval for the use of a 44482
storage location in accordance with division (I) of this section 44483
shall use the storage location exclusively for the following 44484
activities, in accordance with division (C) of this section: 44485

(a) The packaging, assembling, or storing of fireworks, which 44486
shall only occur in buildings, structures, or trailers approved 44487
for such hazardous uses by the building code official having 44488
jurisdiction for the storage location and shall be in accordance 44489
with the rules adopted by the fire marshal under division (G) of 44490
section 3743.05 of the Revised Code for the packaging, assembling, 44491
and storage of fireworks. 44492

(b) Distributing fireworks to other parcels of real estate 44493
located on the manufacturer's licensed premises, to licensed 44494
wholesalers or other licensed manufacturers in this state or to 44495
similarly licensed persons located in another state or country; 44496

(c) Distributing fireworks to a licensed exhibitor of 44497
fireworks pursuant to a properly issued permit in accordance with 44498
section 3743.54 of the Revised Code. 44499

(2) A licensed manufacturer shall not engage in any sales 44500
activity, including the retail sale of fireworks otherwise 44501
permitted under division (C)(2) or (C)(3) of this section, or 44502
pursuant to section 3743.44 or 3743.45 of the Revised Code, at the 44503
storage location approved under this section. 44504

(K) The licensee shall prohibit public access to the storage 44505
location. The fire marshal shall adopt rules to describe the 44506
acceptable measures a manufacturer shall use to prohibit access to 44507
the storage site. 44508

Sec. 3743.05. The fire marshal shall adopt rules in 44509
accordance with Chapter 119. of the Revised Code governing the 44510
classification of fireworks that are consistent with the 44511
classification of fireworks by the United States department of 44512
transportation as set forth in Title 49, Code of Federal 44513
Regulations, and the manufacture of fireworks and the storage of 44514
manufactured fireworks by licensed manufacturers of fireworks. The 44515
rules shall be designed to promote the safety and security of 44516
employees of manufacturers, members of the public, and the 44517
fireworks plant. 44518

The rules shall be consistent with sections 3743.02 to 44519
3743.08 of the Revised Code, shall be substantially equivalent to 44520
the most recent versions of chapters 1123, 1124, and 1126 of the 44521
most recent national fire protection association standards, and 44522