

property pursuant to section 5713.041 of the Revised Code, and the 62196
taxes charged and payable on that property; and 62197

(b) The value of the property subject to taxation in the 62198
district that was classified as residential/agricultural real 62199
property under section 5713.041 of the Revised Code. 62200

(C) By the fifteenth day of November, the department shall 62201
compute the district's effective nonresidential/agricultural real 62202
property value, effective residential/agricultural real property 62203
value, effective personal value, and effective value, and shall 62204
determine whether the school district's effective value for the 62205
second preceding tax year is at least one per cent less than its 62206
total value for that year certified under divisions (A)(1) and (2) 62207
of section 3317.021 of the Revised Code. If it is, the department 62208
shall recompute the basic state aid payable to the district for 62209
the immediately preceding fiscal year using the effective value in 62210
lieu of the amounts previously certified under section 3317.021 of 62211
the Revised Code. The difference between the original basic state 62212
aid amount computed for the district for the preceding fiscal year 62213
and the recomputed amount shall be paid to the district from the 62214
lottery profits education fund before the end of the current 62215
fiscal year. 62216

(D) Except as provided in division (E) of this section, 62217
amounts received by a school district under division (C) of this 62218
section shall be repaid to the department of education in any 62219
future year to the extent the district receives payments of 62220
uncollectable taxes in such future year. The department shall 62221
notify a district of any amount owed under this division. 62222

(E) If a school district received a grant from the 62223
catastrophic expenditures account pursuant to division (C) of 62224
section 3316.20 of the Revised Code on the basis of the same 62225
circumstances for which a recomputation is made under this 62226
section, the amount of the recomputation shall be reduced and 62227

transferred in accordance with division (C) of section 3316.20 of 62228
the Revised Code. 62229

Sec. ~~3306.12~~ 3317.0212. ~~(A)~~ The department of education shall 62230
make no payments under this section for fiscal year 2012 or 2013. 62231

(A) As used in this section: 62232

(1) "Assigned bus" means a school bus used to transport 62233
qualifying riders. 62234

(2) "Nontraditional ridership" means the average number of 62235
qualifying riders who are enrolled in a community school 62236
established under Chapter 3314. of the Revised Code, in a STEM 62237
school established under Chapter 3326. of the Revised Code, or in 62238
a nonpublic school and are provided school bus service by a school 62239
district during the first full week of October. 62240

(3) "Qualifying riders" means resident students enrolled in 62241
regular education in grades kindergarten to twelve who are 62242
provided school bus service by a school district and who live more 62243
than one mile from the school they attend, including students with 62244
dual enrollment in a joint vocational school district or a 62245
cooperative education school district, and students enrolled in a 62246
community school, STEM school, or nonpublic school. 62247

(4) "Qualifying ridership" means the average number of 62248
qualifying riders who are provided school bus service by a school 62249
district during the first full week of October. 62250

(5) "Rider density" means the number of qualifying riders per 62251
square mile of a school district. 62252

(6) "School bus service" means a school district's 62253
transportation of qualifying riders in any of the following types 62254
of vehicles: 62255

(a) School buses owned or leased by the district; 62256

(b) School buses operated by a private contractor hired by the district; 62257
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(c) School buses operated by another school district or entity with which the district has contracted, either as part of a consortium for the provision of transportation or otherwise. 62259
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(B) Not later than the fifteenth day of October each year, each city, local, and exempted village school district shall report to the department of education its qualifying ridership, nontraditional ridership, number of qualifying riders per assigned bus, and any other information requested by the department. 62262
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Subsequent adjustments to the reported numbers shall be made only in accordance with rules adopted by the department. 62267
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(C) The department shall calculate the statewide transportation cost per student as follows: 62269
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(1) Determine each city, local, and exempted village school district's transportation cost per student by dividing the district's total costs for school bus service in the previous fiscal year by its qualifying ridership in the previous fiscal year. 62271
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(2) After excluding districts that do not provide school bus service and the ten districts with the highest transportation costs per student and the ten districts with the lowest transportation costs per student, divide the aggregate cost for school bus service for the remaining districts in the previous fiscal year by the aggregate qualifying ridership of those districts in the previous fiscal year. 62276
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(D) The department shall calculate the statewide transportation cost per mile as follows: 62283
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(1) Determine each city, local, and exempted village school district's transportation cost per mile by dividing the district's total costs for school bus service in the previous fiscal year by 62285
62286
62287

its total number of miles driven for school bus service in the 62288
previous fiscal year. 62289

(2) After excluding districts that do not provide school bus 62290
service and the ten districts with the highest transportation 62291
costs per mile and the ten districts with the lowest 62292
transportation costs per mile, divide the aggregate cost for 62293
school bus service for the remaining districts in the previous 62294
fiscal year by the aggregate miles driven for school bus service 62295
in those districts in the previous fiscal year. 62296

(E) The department shall calculate each city, local, and 62297
exempted village school district's transportation base payment as 62298
follows: 62299

(1) Multiply the statewide transportation cost per student by 62300
the district's qualifying ridership for the current fiscal year. 62301

(2) Multiply the statewide transportation cost per mile by 62302
the district's total number of miles driven for school bus service 62303
in the current fiscal year. 62304

(3) Multiply the greater of the amounts calculated under 62305
divisions (E)(1) and (2) of this section by the greater of sixty 62306
per cent or the district's state share percentage, as defined in 62307
section 3317.02 of the Revised Code. 62308

(F) The department shall calculate each city, local, and 62309
exempted village school district's nontraditional ridership 62310
adjustment according to the following formula: 62311

(nontraditional ridership for the current fiscal year / 62312
qualifying ridership for the current fiscal year) X 0.1 X 62313
transportation base payment 62314

(G) If a city, local, ~~and~~ or exempted village school district 62315
offers school bus service to all resident students who are 62316
enrolled in regular education in district schools in grades nine 62317
to twelve and who live more than one mile from the school they 62318

attend, the department shall calculate the district's high school ridership adjustment according to the following formula:

0.025 X transportation base payment

(H) If a city, local, ~~and~~ or exempted village school district offers school bus service to students enrolled in grades kindergarten to eight who live more than one mile, but two miles or less, from the school they attend, the department shall calculate an additional adjustment according to the following formula:

0.025 X transportation base payment

(I)(1) The department annually shall establish a target number of qualifying riders per assigned bus for each city, local, and exempted village school district. The department shall use the most recently available data in establishing the target number. The target number shall be based on the statewide median number of qualifying riders per assigned bus as adjusted to reflect the district's rider density in comparison to the rider density of all other districts. The department shall post on the department's web site each district's target number of qualifying riders per assigned bus and a description of how the target number was determined.

(2) The department shall determine each school district's efficiency index by dividing the district's median number of qualifying riders per assigned bus by its target number of qualifying riders per assigned bus.

(3) The department shall determine each city, local, and exempted village school district's efficiency adjustment as follows:

(a) If the district's efficiency index is equal to or greater than 1.5, the efficiency adjustment shall be calculated according to the following formula:

0.1 X transportation base payment	62350
(b) If the district's efficiency index is less than 1.5 but equal to or greater than 1.0, the efficiency adjustment shall be calculated according to the following formula:	62351 62352 62353
[(efficiency index - 1) / 5] X transportation base payment	62354
(c) If the district's efficiency index is less than 1.0, the efficiency adjustment shall be zero.	62355 62356
(J) The department shall pay each city, local, and exempted village school district the lesser of the following:	62357 62358
(1) The sum of the amounts calculated under divisions (E) to (H) and (I)(3) of this section;	62359 62360
(2) The district's total costs for school bus service for the prior fiscal year.	62361 62362
(K) In addition to funds paid under division (J) of this section, each city, local, and exempted village district shall receive in accordance with rules adopted by the state board of education a payment for students transported by means other than school bus service and whose transportation is not funded under division (G) (C) of section 3317.024 of the Revised Code. The rules shall include provisions for school district reporting of such students.	62363 62364 62365 62366 62367 62368 62369 62370
(L)(1) In fiscal years 2010 and 2011, the department shall pay each district a pro rata portion of the amounts calculated under division (J) of this section and described in division (K) of this section, based on state appropriations.	62371 62372 62373 62374
(2) In addition to the prorated payment under division (L)(1) of this section, in fiscal years 2010 and 2011, the department shall pay each school district that meets the conditions prescribed in division (L)(3) of this section an additional amount equal to the following product:	62375 62376 62377 62378 62379

~~(a) The difference of (i) the amounts calculated under 62380
division (J) of this section and prescribed in division (K) of 62381
this section minus (ii) that prorated payment; times 62382~~

~~(b) 0.30 in fiscal year 2010 and 0.70 in fiscal year 2011. 62383~~

~~(3) Division (L)(2) of this section applies to each school 62384
district that meets all of the following conditions: 62385~~

~~(a) The district qualifies for the calculation of a payment 62386
under division (J) of this section because it transports students 62387
on board owned or contractor owned school buses. 62388~~

~~(b) The district's local wealth per pupil, calculated as 62389
prescribed in section 3317.0217 of the Revised Code, is at or 62390
below the median local wealth per pupil of all districts that 62391
qualify for calculation of a payment under division (J) of this 62392
section. 62393~~

~~(c) The district's rider density is at or below the median 62394
rider density of all districts that qualify for calculation of a 62395
payment under division (J) of this section. 62396~~

~~**Sec. 3317.03.** The information certified and verified under 62397
this section shall be used to calculate payments under this 62398
chapter and Chapter 3306. of the Revised Code. 62399~~

~~(A) The superintendent of each city, local, and exempted 62400
village school district and of each educational service center 62401
shall, for the schools under the superintendent's supervision, 62402
certify to the state board of education on or before the fifteenth 62403
day of October in each year for the first full school week in 62404
October the average daily membership of students receiving 62405
services from schools under the superintendent's supervision, and 62406
the numbers of other students entitled to attend school in the 62407
district under section 3313.64 or 3313.65 of the Revised Code the 62408
superintendent is required to report under this section, so that 62409~~

the department of education can calculate the district's formula 62410
ADM. If a school under the superintendent's supervision is closed 62411
for one or more days during that week due to hazardous weather 62412
conditions or other circumstances described in the first paragraph 62413
of division (B) of section 3317.01 of the Revised Code, the 62414
superintendent may apply to the superintendent of public 62415
instruction for a waiver, under which the superintendent of public 62416
instruction may exempt the district superintendent from certifying 62417
the average daily membership for that school for that week and 62418
specify an alternate week for certifying the average daily 62419
membership of that school. 62420

The average daily membership during such week shall consist 62421
of the sum of the following: 62422

(1) On an FTE basis, the number of students in grades 62423
kindergarten through twelve receiving any educational services 62424
from the district, except that the following categories of 62425
students shall not be included in the determination: 62426

(a) Students enrolled in adult education classes; 62427

(b) Adjacent or other district students enrolled in the 62428
district under an open enrollment policy pursuant to section 62429
3313.98 of the Revised Code; 62430

(c) Students receiving services in the district pursuant to a 62431
compact, cooperative education agreement, or a contract, but who 62432
are entitled to attend school in another district pursuant to 62433
section 3313.64 or 3313.65 of the Revised Code; 62434

(d) Students for whom tuition is payable pursuant to sections 62435
3317.081 and 3323.141 of the Revised Code; 62436

(e) Students receiving services in the district through a 62437
scholarship awarded under either section 3310.41 or sections 62438
3310.51 to 3310.64 of the Revised Code. 62439

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

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

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

(c) A college pursuant to Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code;

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

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

(f) Another school district under a cooperative education agreement, compact, or contract;

(g) A chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;

(h) An alternative public provider or a registered private provider with a scholarship awarded under either section 3310.41 or sections 3310.51 to 3310.64 of the Revised Code.

As used in this section, "alternative public provider" and

"registered private provider" have the same meanings as in section 62470
3310.41 or 3310.51 of the Revised Code, as applicable. 62471

(i) A science, technology, engineering, and mathematics 62472
school established under Chapter 3326. of the Revised Code, 62473
including any participation in a college pursuant to Chapter 3365. 62474
of the Revised Code while enrolled in the school; 62475

(j) A college-preparatory boarding school established under 62476
Chapter 3328. of the Revised Code. 62477

(3) The number of students enrolled in a joint vocational 62478
school district or under a vocational education compact, excluding 62479
any students entitled to attend school in the district under 62480
section 3313.64 or 3313.65 of the Revised Code who are enrolled in 62481
another school district through an open enrollment policy as 62482
reported under division (A)(2)(d) of this section and then enroll 62483
in a joint vocational school district or under a vocational 62484
education compact; 62485

(4) The number of children with disabilities, other than 62486
preschool children with disabilities, entitled to attend school in 62487
the district pursuant to section 3313.64 or 3313.65 of the Revised 62488
Code who are placed by the district with a county DD board, minus 62489
the number of such children placed with a county DD board in 62490
fiscal year 1998. If this calculation produces a negative number, 62491
the number reported under division (A)(4) of this section shall be 62492
zero. 62493

(B) To enable the department of education to obtain the data 62494
needed to complete the calculation of payments pursuant to this 62495
chapter ~~and Chapter 3306. of the Revised Code~~, in addition to the 62496
average daily membership, each superintendent shall report 62497
separately the following student counts for the same week for 62498
which average daily membership is certified: 62499

(1) The total average daily membership in regular learning 62500

day classes included in the report under division (A)(1) or (2) of 62501
this section for each of the individual grades kindergarten 62502
through twelve in schools under the superintendent's supervision; 62503

(2) The number of all preschool children with disabilities 62504
enrolled as of the first day of December in classes in the 62505
district that are eligible for approval under division (B) of 62506
section 3317.05 of the Revised Code and the number of those 62507
classes, which shall be reported not later than the fifteenth day 62508
of December, in accordance with rules adopted under that section; 62509

(3) The number of children entitled to attend school in the 62510
district pursuant to section 3313.64 or 3313.65 of the Revised 62511
Code who are: 62512

(a) Participating in a pilot project scholarship program 62513
established under sections 3313.974 to 3313.979 of the Revised 62514
Code as described in division (I)(2)(a) or (b) of this section; 62515

(b) Enrolled in a college under Chapter 3365. of the Revised 62516
Code, except when the student is enrolled in the college while 62517
also enrolled in a community school pursuant to Chapter 3314. or a 62518
science, technology, engineering, and mathematics school 62519
established under Chapter 3326. of the Revised Code; 62520

(c) Enrolled in an adjacent or other school district under 62521
section 3313.98 of the Revised Code; 62522

(d) Enrolled in a community school established under Chapter 62523
3314. of the Revised Code that is not an internet- or 62524
computer-based community school as defined in section 3314.02 of 62525
the Revised Code, including any participation in a college 62526
pursuant to Chapter 3365. of the Revised Code while enrolled in 62527
such community school; 62528

(e) Enrolled in an internet- or computer-based community 62529
school, as defined in section 3314.02 of the Revised Code, 62530
including any participation in a college pursuant to Chapter 3365. 62531

of the Revised Code while enrolled in the school;	62532
(f) Enrolled in a chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;	62533 62534
(g) Enrolled in kindergarten through grade twelve in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	62535 62536 62537
(h) Enrolled as a preschool child with a disability in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	62538 62539 62540
(i) Participating in a program operated by a county DD board or a state institution;	62541 62542
(j) Enrolled in a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;	62543 62544 62545 62546
<u>(k) Enrolled in a college-preparatory boarding school established under Chapter 3328. of the Revised Code.</u>	62547 62548
(4) The number of pupils enrolled in joint vocational schools;	62549 62550
(5) The <u>combined</u> average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for the category one disability described in division (D)(1)(A) of section 3306.02 <u>3317.013</u> of the Revised Code, <u>including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;</u>	62551 62552 62553 62554 62555 62556 62557 62558
(6) The <u>combined</u> average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category two disabilities	62559 62560 62561

described in division ~~(D)(2)~~(B) of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(7) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category three disabilities described in division ~~(D)(3)~~(C) of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(8) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category four disabilities described in division ~~(D)(4)~~ of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(9) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for the category five disabilities described in division ~~(D)(5)~~(E) of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(10) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) and under division (B)(3)(h) of this section receiving special education

services for category six disabilities described in division 62594
(D)(6)(F) of section ~~3306.02~~ 3317.013 of the Revised Code, 62595
including children attending a special education program operated 62596
by an alternative public provider or a registered private provider 62597
with a scholarship awarded under either section 3310.41 or 62598
sections 3310.51 to 3310.64 of the Revised Code; 62599

(11) The average daily membership of pupils reported under 62600
division (A)(1) or (2) of this section enrolled in category one 62601
vocational education programs or classes, described in division 62602
(A) of section 3317.014 of the Revised Code, operated by the 62603
school district or by another district, other than a joint 62604
vocational school district, or by an educational service center, 62605
excluding any student reported under division (B)(3)(e) of this 62606
section as enrolled in an internet- or computer-based community 62607
school, notwithstanding division (C) of section 3317.02 of the 62608
Revised Code and division (C)(3) of this section; 62609

(12) The average daily membership of pupils reported under 62610
division (A)(1) or (2) of this section enrolled in category two 62611
vocational education programs or services, described in division 62612
(B) of section 3317.014 of the Revised Code, operated by the 62613
school district or another school district, other than a joint 62614
vocational school district, or by an educational service center, 62615
excluding any student reported under division (B)(3)(e) of this 62616
section as enrolled in an internet- or computer-based community 62617
school, notwithstanding division (C) of section 3317.02 of the 62618
Revised Code and division (C)(3) of this section; 62619

Beginning with fiscal year 2010, vocational education ADM 62620
shall not be used to calculate a district's funding but shall be 62621
reported under divisions (B)(11) and (12) of this section for 62622
statistical purposes. 62623

(13) The average number of children transported by the school 62624
district on board-owned or contractor-owned and -operated buses, 62625

reported in accordance with rules adopted by the department of 62626
education; 62627

(14)(a) The number of children, other than preschool children 62628
with disabilities, the district placed with a county DD board in 62629
fiscal year 1998; 62630

(b) The number of children with disabilities, other than 62631
preschool children with disabilities, placed with a county DD 62632
board in the current fiscal year to receive special education 62633
services for the category one disability described in division 62634
~~(D)(1)(A)~~ of section ~~3306.02~~ 3317.013 of the Revised Code; 62635

(c) The number of children with disabilities, other than 62636
preschool children with disabilities, placed with a county DD 62637
board in the current fiscal year to receive special education 62638
services for category two disabilities described in division 62639
~~(D)(2)(B)~~ of section ~~3306.02~~ 3317.013 of the Revised Code; 62640

(d) The number of children with disabilities, other than 62641
preschool children with disabilities, placed with a county DD 62642
board in the current fiscal year to receive special education 62643
services for category three disabilities described in division 62644
~~(D)(3)(C)~~ of section ~~3306.02~~ 3317.013 of the Revised Code; 62645

(e) The number of children with disabilities, other than 62646
preschool children with disabilities, placed with a county DD 62647
board in the current fiscal year to receive special education 62648
services for category four disabilities described in division 62649
~~(D)(4)~~ of section ~~3306.02~~ 3317.013 of the Revised Code; 62650

(f) The number of children with disabilities, other than 62651
preschool children with disabilities, placed with a county DD 62652
board in the current fiscal year to receive special education 62653
services for the category five disabilities described in division 62654
~~(D)(5)(E)~~ of section ~~3306.02~~ 3317.013 of the Revised Code; 62655

(g) The number of children with disabilities, other than 62656

preschool children with disabilities, placed with a county DD 62657
board in the current fiscal year to receive special education 62658
services for category six disabilities described in division 62659
(D)(6)(F) of section ~~3306.02~~ 3317.013 of the Revised Code. 62660

(C)(1) The average daily membership in divisions (B)(1) to 62661
(12) of this section shall be based upon the number of full-time 62662
equivalent students. The state board of education shall adopt 62663
rules defining full-time equivalent students and for determining 62664
the average daily membership therefrom for the purposes of 62665
divisions (A), (B), and (D) of this section. 62666

(2) A student enrolled in a community school established 62667
under Chapter 3314. ~~or~~ a science, technology, engineering, and 62668
mathematics school established under Chapter 3326., or a 62669
college-preparatory boarding school established under Chapter 62670
3328. of the Revised Code shall be counted in the formula ADM and, 62671
if applicable, the category one, two, three, four, five, or six 62672
special education ADM of the school district in which the student 62673
is entitled to attend school under section 3313.64 or 3313.65 of 62674
the Revised Code for the same proportion of the school year that 62675
the student is counted in the enrollment of the community school 62676
~~or~~ the science, technology, engineering, and mathematics school, 62677
or the college-preparatory boarding school for purposes of section 62678
3314.08 ~~or~~ 3326.33, or 3328.24 of the Revised Code. 62679

Notwithstanding the number of students reported pursuant to 62680
division (B)(3)(d), (e), ~~or~~ (j), or (k) of this section, the 62681
department may adjust the formula ADM of a school district to 62682
account for students entitled to attend school in the district 62683
under section 3313.64 or 3313.65 of the Revised Code who are 62684
enrolled in a community school ~~or~~ a science, technology, 62685
engineering, and mathematics school, or a college-preparatory 62686
boarding school for only a portion of the school year. 62687

(3) No child shall be counted as more than a total of one 62688

child in the sum of the average daily memberships of a school 62689
district under division (A), divisions (B)(1) to (12), or division 62690
(D) of this section, except as follows: 62691

(a) A child with a disability described in ~~division (D) of~~ 62692
section ~~3306.02~~ 3317.013 of the Revised Code may be counted both 62693
in formula ADM and in category one, two, three, four, five, or six 62694
special education ADM and, if applicable, in category one or two 62695
vocational education ADM. As provided in division (C) of section 62696
3317.02 of the Revised Code, such a child shall be counted in 62697
category one, two, three, four, five, or six special education ADM 62698
in the same proportion that the child is counted in formula ADM. 62699

(b) A child enrolled in vocational education programs or 62700
classes described in section 3317.014 of the Revised Code may be 62701
counted both in formula ADM and category one or two vocational 62702
education ADM and, if applicable, in category one, two, three, 62703
four, five, or six special education ADM. Such a child shall be 62704
counted in category one or two vocational education ADM in the 62705
same proportion as the percentage of time that the child spends in 62706
the vocational education programs or classes. 62707

(4) Based on the information reported under this section, the 62708
department of education shall determine the total student count, 62709
as defined in section 3301.011 of the Revised Code, for each 62710
school district. 62711

(D)(1) The superintendent of each joint vocational school 62712
district shall certify to the superintendent of public instruction 62713
on or before the fifteenth day of October in each year for the 62714
first full school week in October the formula ADM, for purposes of 62715
section 3318.42 of the Revised Code and for any other purpose 62716
prescribed by law for which "formula ADM" of the joint vocational 62717
district is a factor. If a school operated by the joint vocational 62718
school district is closed for one or more days during that week 62719
due to hazardous weather conditions or other circumstances 62720

described in the first paragraph of division (B) of section 62721
3317.01 of the Revised Code, the superintendent may apply to the 62722
superintendent of public instruction for a waiver, under which the 62723
superintendent of public instruction may exempt the district 62724
superintendent from certifying the formula ADM for that school for 62725
that week and specify an alternate week for certifying the formula 62726
ADM of that school. 62727

The formula ADM, except as otherwise provided in this 62728
division, shall consist of the average daily membership during 62729
such week, on an FTE basis, of the number of students receiving 62730
any educational services from the district, including students 62731
enrolled in a community school established under Chapter 3314. or 62732
a science, technology, engineering, and mathematics school 62733
established under Chapter 3326. of the Revised Code who are 62734
attending the joint vocational district under an agreement between 62735
the district board of education and the governing authority of the 62736
community school or the governing body of the science, technology, 62737
engineering, and mathematics school and are entitled to attend 62738
school in a city, local, or exempted village school district whose 62739
territory is part of the territory of the joint vocational 62740
district. 62741

The following categories of students shall not be included in 62742
the determination made under division (D)(1) of this section: 62743

(a) Students enrolled in adult education classes; 62744

(b) Adjacent or other district joint vocational students 62745
enrolled in the district under an open enrollment policy pursuant 62746
to section 3313.98 of the Revised Code; 62747

(c) Students receiving services in the district pursuant to a 62748
compact, cooperative education agreement, or a contract, but who 62749
are entitled to attend school in a city, local, or exempted 62750
village school district whose territory is not part of the 62751

territory of the joint vocational district;	62752
(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.	62753 62754
(2) In <u>To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in</u> addition to the formula ADM, each superintendent shall report separately the average daily membership included in the report under division (D)(1) of this section for each of the following categories of students for the same week for which formula ADM is certified:	62755 62756 62757 62758 62759 62760 62761
(a) Students enrolled in each individual grade included in the joint vocational district schools;	62762 62763
(b) Children with disabilities receiving special education services for the category one disability described in division (D)(1)(A) of section 3306.02 <u>3317.013</u> of the Revised Code;	62764 62765 62766
(c) Children with disabilities receiving special education services for the category two disabilities described in division (D)(2)(B) of section 3306.02 <u>3317.013</u> of the Revised Code;	62767 62768 62769
(d) Children with disabilities receiving special education services for category three disabilities described in division (D)(3)(C) of section 3306.02 <u>3317.013</u> of the Revised Code;	62770 62771 62772
(e) Children with disabilities receiving special education services for category four disabilities described in division (D)(4) of section 3306.02 <u>3317.013</u> of the Revised Code;	62773 62774 62775
(f) Children with disabilities receiving special education services for the category five disabilities described in division (D)(5)(E) of section 3306.02 <u>3317.013</u> of the Revised Code;	62776 62777 62778
(g) Children with disabilities receiving special education services for category six disabilities described in division (D)(6)(F) of section 3306.02 <u>3317.013</u> of the Revised Code;	62779 62780 62781

(h) Students receiving category one vocational education services, described in division (A) of section 3317.014 of the Revised Code; 62782
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(i) Students receiving category two vocational education services, described in division (B) of section 3317.014 of the Revised Code. 62785
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The superintendent of each joint vocational school district shall also indicate the city, local, or exempted village school district in which each joint vocational district pupil is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code. 62788
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(E) In each school of each city, local, exempted village, joint vocational, and cooperative education school district there shall be maintained a record of school membership, which record shall accurately show, for each day the school is in session, the actual membership enrolled in regular day classes. For the purpose of determining average daily membership, the membership figure of any school shall not include any pupils except those pupils described by division (A) of this section. The record of membership for each school shall be maintained in such manner that no pupil shall be counted as in membership prior to the actual date of entry in the school and also in such manner that where for any cause a pupil permanently withdraws from the school that pupil shall not be counted as in membership from and after the date of such withdrawal. There shall not be included in the membership of any school any of the following: 62793
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(1) Any pupil who has graduated from the twelfth grade of a public or nonpublic high school; 62808
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(2) Any pupil who is not a resident of the state; 62810

(3) Any pupil who was enrolled in the schools of the district during the previous school year when assessments were administered 62811
62812

under section 3301.0711 of the Revised Code but did not take one 62813
or more of the assessments required by that section and was not 62814
excused pursuant to division (C)(1) or (3) of that section; 62815

(4) Any pupil who has attained the age of twenty-two years, 62816
except for veterans of the armed services whose attendance was 62817
interrupted before completing the recognized twelve-year course of 62818
the public schools by reason of induction or enlistment in the 62819
armed forces and who apply for reenrollment in the public school 62820
system of their residence not later than four years after 62821
termination of war or their honorable discharge. 62822

If, however, any veteran described by division (E)(4) of this 62823
section elects to enroll in special courses organized for veterans 62824
for whom tuition is paid under the provisions of federal laws, or 62825
otherwise, that veteran shall not be included in average daily 62826
membership. 62827

Notwithstanding division (E)(3) of this section, the 62828
membership of any school may include a pupil who did not take an 62829
assessment required by section 3301.0711 of the Revised Code if 62830
the superintendent of public instruction grants a waiver from the 62831
requirement to take the assessment to the specific pupil and a 62832
parent is not paying tuition for the pupil pursuant to section 62833
3313.6410 of the Revised Code. The superintendent may grant such a 62834
waiver only for good cause in accordance with rules adopted by the 62835
state board of education. 62836

Except as provided in divisions (B)(2) and (F) of this 62837
section, the average daily membership figure of any local, city, 62838
exempted village, or joint vocational school district shall be 62839
determined by dividing the figure representing the sum of the 62840
number of pupils enrolled during each day the school of attendance 62841
is actually open for instruction during the week for which the 62842
average daily membership is being certified by the total number of 62843
days the school was actually open for instruction during that 62844

week. For purposes of state funding, "enrolled" persons are only 62845
those pupils who are attending school, those who have attended 62846
school during the current school year and are absent for 62847
authorized reasons, and those children with disabilities currently 62848
receiving home instruction. 62849

The average daily membership figure of any cooperative 62850
education school district shall be determined in accordance with 62851
rules adopted by the state board of education. 62852

(F)(1) If the formula ADM for the first full school week in 62853
February is at least three per cent greater than that certified 62854
for the first full school week in the preceding October, the 62855
superintendent of schools of any city, exempted village, or joint 62856
vocational school district or educational service center shall 62857
certify such increase to the superintendent of public instruction. 62858
Such certification shall be submitted no later than the fifteenth 62859
day of February. For the balance of the fiscal year, beginning 62860
with the February payments, the superintendent of public 62861
instruction shall use the increased formula ADM in calculating or 62862
recalculating the amounts to be allocated in accordance with 62863
section 3317.022 or 3317.16 of the Revised Code. In no event shall 62864
the superintendent use an increased membership certified to the 62865
superintendent after the fifteenth day of February. Division 62866
(F)(1) of this section does not apply after fiscal year 2006. 62867

(2) If on the first school day of April the total number of 62868
classes or units for preschool children with disabilities that are 62869
eligible for approval under division (B) of section 3317.05 of the 62870
Revised Code exceeds the number of units that have been approved 62871
for the year under that division, the superintendent of schools of 62872
any city, exempted village, or cooperative education school 62873
district or educational service center shall make the 62874
certifications required by this section for that day. If the 62875
department determines additional units can be approved for the 62876

fiscal year within any limitations set forth in the acts 62877
appropriating moneys for the funding of such units, the department 62878
shall approve additional units for the fiscal year on the basis of 62879
such average daily membership. For each unit so approved, the 62880
department shall pay an amount computed in the manner prescribed 62881
in section 3317.052 or 3317.19 and section 3317.053 of the Revised 62882
Code. 62883

(3) If a student attending a community school under Chapter 62884
3314. ~~or~~ a science, technology, engineering, and mathematics 62885
school established under Chapter 3326., or a college-preparatory 62886
boarding school established under Chapter 3328. of the Revised 62887
Code is not included in the formula ADM certified for the school 62888
district in which the student is entitled to attend school under 62889
section 3313.64 or 3313.65 of the Revised Code, the department of 62890
education shall adjust the formula ADM of that school district to 62891
include the student in accordance with division (C)(2) of this 62892
section, and shall recalculate the school district's payments 62893
under this chapter ~~and Chapter 3306.~~ of the Revised Code for the 62894
entire fiscal year on the basis of that adjusted formula ADM. This 62895
requirement applies regardless of whether the student was 62896
enrolled, as defined in division (E) of this section, in the 62897
community school ~~or~~ the science, technology, engineering, and 62898
mathematics school, or the college-preparatory boarding school 62899
during the week for which the formula ADM is being certified. 62900

(4) If a student awarded an educational choice scholarship is 62901
not included in the formula ADM of the school district from which 62902
the department deducts funds for the scholarship under section 62903
3310.08 of the Revised Code, the department shall adjust the 62904
formula ADM of that school district to include the student to the 62905
extent necessary to account for the deduction, and shall 62906
recalculate the school district's payments under this chapter ~~and~~ 62907
~~Chapter 3306.~~ of the Revised Code for the entire fiscal year on 62908

the basis of that adjusted formula ADM. This requirement applies 62909
regardless of whether the student was enrolled, as defined in 62910
division (E) of this section, in the chartered nonpublic school, 62911
the school district, or a community school during the week for 62912
which the formula ADM is being certified. 62913

(5) If a student awarded a scholarship under the Jon Peterson 62914
special needs scholarship program is not included in the formula 62915
ADM of the school district from which the department deducts funds 62916
for the scholarship under section 3310.55 of the Revised Code, the 62917
department shall adjust the formula ADM of that school district to 62918
include the student to the extent necessary to account for the 62919
deduction, and shall recalculate the school district's payments 62920
under this chapter for the entire fiscal year on the basis of that 62921
adjusted formula ADM. This requirement applies regardless of 62922
whether the student was enrolled, as defined in division (E) of 62923
this section, in an alternative public provider, a registered 62924
private provider, or the school district during the week for which 62925
the formula ADM is being certified. 62926

(G)(1)(a) The superintendent of an institution operating a 62927
special education program pursuant to section 3323.091 of the 62928
Revised Code shall, for the programs under such superintendent's 62929
supervision, certify to the state board of education, in the 62930
manner prescribed by the superintendent of public instruction, 62931
both of the following: 62932

(i) The average daily membership of all children with 62933
disabilities other than preschool children with disabilities 62934
receiving services at the institution for each category of 62935
disability described in divisions ~~(D)(1) to (6)(A)~~ to (F) of 62936
section ~~3306.02~~ 3317.013 of the Revised Code; 62937

(ii) The average daily membership of all preschool children 62938
with disabilities in classes or programs approved annually by the 62939
department of education for unit funding under section 3317.05 of 62940

the Revised Code. 62941

(b) The superintendent of an institution with vocational 62942
education units approved under division (A) of section 3317.05 of 62943
the Revised Code shall, for the units under the superintendent's 62944
supervision, certify to the state board of education the average 62945
daily membership in those units, in the manner prescribed by the 62946
superintendent of public instruction. 62947

(2) The superintendent of each county DD board that maintains 62948
special education classes under section 3317.20 of the Revised 62949
Code or units approved pursuant to section 3317.05 of the Revised 62950
Code shall do both of the following: 62951

(a) Certify to the state board, in the manner prescribed by 62952
the board, the average daily membership in classes under section 62953
3317.20 of the Revised Code for each school district that has 62954
placed children in the classes; 62955

(b) Certify to the state board, in the manner prescribed by 62956
the board, the number of all preschool children with disabilities 62957
enrolled as of the first day of December in classes eligible for 62958
approval under division (B) of section 3317.05 of the Revised 62959
Code, and the number of those classes. 62960

(3)(a) If on the first school day of April the number of 62961
classes or units maintained for preschool children with 62962
disabilities by the county DD board that are eligible for approval 62963
under division (B) of section 3317.05 of the Revised Code is 62964
greater than the number of units approved for the year under that 62965
division, the superintendent shall make the certification required 62966
by this section for that day. 62967

(b) If the department determines that additional classes or 62968
units can be approved for the fiscal year within any limitations 62969
set forth in the acts appropriating moneys for the funding of the 62970
classes and units described in division (G)(3)(a) of this section, 62971

the department shall approve and fund additional units for the 62972
fiscal year on the basis of such average daily membership. For 62973
each unit so approved, the department shall pay an amount computed 62974
in the manner prescribed in sections 3317.052 and 3317.053 of the 62975
Revised Code. 62976

(H) Except as provided in division (I) of this section, when 62977
any city, local, or exempted village school district provides 62978
instruction for a nonresident pupil whose attendance is 62979
unauthorized attendance as defined in section 3327.06 of the 62980
Revised Code, that pupil's membership shall not be included in 62981
that district's membership figure used in the calculation of that 62982
district's formula ADM or included in the determination of any 62983
unit approved for the district under section 3317.05 of the 62984
Revised Code. The reporting official shall report separately the 62985
average daily membership of all pupils whose attendance in the 62986
district is unauthorized attendance, and the membership of each 62987
such pupil shall be credited to the school district in which the 62988
pupil is entitled to attend school under division (B) of section 62989
3313.64 or section 3313.65 of the Revised Code as determined by 62990
the department of education. 62991

(I)(1) A city, local, exempted village, or joint vocational 62992
school district admitting a scholarship student of a pilot project 62993
district pursuant to division (C) of section 3313.976 of the 62994
Revised Code may count such student in its average daily 62995
membership. 62996

(2) In any year for which funds are appropriated for pilot 62997
project scholarship programs, a school district implementing a 62998
state-sponsored pilot project scholarship program that year 62999
pursuant to sections 3313.974 to 3313.979 of the Revised Code may 63000
count in average daily membership: 63001

(a) All children residing in the district and utilizing a 63002
scholarship to attend kindergarten in any alternative school, as 63003

defined in section 3313.974 of the Revised Code; 63004

(b) All children who were enrolled in the district in the 63005
preceding year who are utilizing a scholarship to attend ~~any such~~ 63006
an alternative school. 63007

(J) The superintendent of each cooperative education school 63008
district shall certify to the superintendent of public 63009
instruction, in a manner prescribed by the state board of 63010
education, the applicable average daily memberships for all 63011
students in the cooperative education district, also indicating 63012
the city, local, or exempted village district where each pupil is 63013
entitled to attend school under section 3313.64 or 3313.65 of the 63014
Revised Code. 63015

(K) If the superintendent of public instruction determines 63016
that a component of the average daily membership certified or 63017
reported by a district superintendent, or other reporting entity, 63018
is not correct, the superintendent of public instruction may order 63019
that the formula ADM used for the purposes of payments under any 63020
section of Title XXXVIII of the Revised Code be adjusted in the 63021
amount of the error. 63022

Sec. 3317.031. A membership record shall be kept by grade 63023
level in each city, local, exempted village, joint vocational, and 63024
cooperative education school district and such a record shall be 63025
kept by grade level in each educational service center that 63026
provides academic instruction to pupils, classes for pupils with 63027
disabilities, or any other direct instructional services to 63028
pupils. Such membership record shall show the following 63029
information for each pupil enrolled: Name, date of birth, name of 63030
parent, date entered school, date withdrawn from school, days 63031
present, days absent, and the number of days school was open for 63032
instruction while the pupil was enrolled. At the end of the school 63033
year this membership record shall show the total days present, the 63034

total days absent, and the total days due for all pupils in each 63035
grade. Such membership record shall show the pupils that are 63036
transported to and from school and it shall also show the pupils 63037
that are transported living within one mile of the school 63038
attended. This membership record shall also show any other 63039
information prescribed by the state board of education. 63040

This membership record shall be kept intact for at least five 63041
years and shall be made available to the state board of education 63042
or its representative in making an audit of the average daily 63043
membership or the transportation of the district or educational 63044
service center. ~~The membership records of local school districts~~ 63045
~~shall be filed at the close of each school year in the office of~~ 63046
~~the educational service center superintendent.~~ 63047

The state board of education may withhold any money due any 63048
school district or educational service center under this chapter 63049
~~and Chapter 3306. of the Revised Code~~ until it has satisfactory 63050
evidence that the board of education or educational service center 63051
governing board has fully complied with all of the provisions of 63052
this section. 63053

Nothing in this section shall require any person to release, 63054
or to permit access to, public school records in violation of 63055
section 3319.321 of the Revised Code. 63056

Sec. 3317.05. (A) For the purpose of calculating payments 63057
under sections 3317.052 and 3317.053 of the Revised Code, the 63058
department of education shall determine for each institution, by 63059
the last day of January of each year and based on information 63060
certified under section 3317.03 of the Revised Code, the number of 63061
vocational education units or fractions of units approved by the 63062
department on the basis of standards and rules adopted by the 63063
state board of education. As used in this division, "institution" 63064
means an institution operated by a department specified in section 63065

3323.091 of the Revised Code and that provides vocational 63066
education programs under the supervision of the division of 63067
vocational education of the department that meet the standards and 63068
rules for these programs, including licensure of professional 63069
staff involved in the programs, as established by the state board. 63070

(B) For the purpose of calculating payments under sections 63071
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 63072
department shall determine, based on information certified under 63073
section 3317.03 of the Revised Code, the following by the last day 63074
of January of each year for each educational service center, for 63075
each school district, including each cooperative education school 63076
district, for each institution eligible for payment under section 63077
3323.091 of the Revised Code, and for each county DD board: the 63078
number of classes operated by the school district, service center, 63079
institution, or county DD board for preschool children with 63080
disabilities, or fraction thereof, including in the case of a 63081
district or service center that is a funding agent, classes taught 63082
by a licensed teacher employed by that district or service center 63083
under section 3313.841 of the Revised Code, approved annually by 63084
the department on the basis of standards and rules adopted by the 63085
state board. 63086

(C) For the purpose of calculating payments under sections 63087
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 63088
department shall determine, based on information certified under 63089
section 3317.03 of the Revised Code, the following by the last day 63090
of January of each year for each school district, including each 63091
cooperative education school district, for each institution 63092
eligible for payment under section 3323.091 of the Revised Code, 63093
and for each county DD board: the number of units for related 63094
services, as defined in section 3323.01 of the Revised Code, for 63095
preschool children with disabilities approved annually by the 63096
department on the basis of standards and rules adopted by the 63097

state board. 63098

(D) All of the arithmetical calculations made under this 63099
section shall be carried to the second decimal place. The total 63100
number of units for school districts, service centers, and 63101
institutions approved annually under this section shall not exceed 63102
the number of units included in the estimate of cost for these 63103
units and appropriations made for them by the general assembly. 63104

In the case of units for preschool children with disabilities 63105
described in division (B) of this section, the department shall 63106
approve only preschool units for children who are under age six on 63107
the thirtieth day of September of the academic year, or on the 63108
first day of August of the academic year if the school district in 63109
which the child is enrolled has adopted a resolution under 63110
division (A)(3) of section 3321.01 of the Revised Code, but not 63111
less than age three on the first day of December of the academic 63112
year, except that such a unit may include one or more children who 63113
are under age three or are age six or over on the applicable date, 63114
as reported under division (B)(2) or (G)(2)(b) of section 3317.03 63115
of the Revised Code, if such children have been admitted to the 63116
unit pursuant to rules of the state board. The number of units for 63117
county DD boards and institutions eligible for payment under 63118
section 3323.091 of the Revised Code approved under this section 63119
shall not exceed the number that can be funded with appropriations 63120
made for such purposes by the general assembly. 63121

No unit shall be approved under divisions (B) and (C) of this 63122
section unless a plan has been submitted and approved under 63123
Chapter 3323. of the Revised Code. 63124

~~(E) The department shall approve units or fractions thereof 63125
for gifted children on the basis of standards and rules adopted by 63126
the state board. 63127~~

Sec. 3317.051. ~~(A)(1) Notwithstanding sections 3317.05 and 63128~~

~~3317.11 of the Revised Code, a unit funded pursuant to division 63129
(L) of section 3317.024 or division (A)(2) of section 3317.052 of 63130
the Revised Code shall not be approved for state funding in one 63131
school district, including any cooperative education school 63132
district or any educational service center, to the extent that 63133
such unit provides programs in or services to another district 63134
which receives payment pursuant to section 3317.04 of the Revised 63135
Code. 63136~~

~~(2) Any city, local, exempted village, or cooperative 63137
education school district or any educational service center may 63138
combine partial unit eligibility for programs for preschool 63139
children with disabilities pursuant to section 3317.05 of the 63140
Revised Code, and such combined partial units may be approved for 63141
state funding in one school district or service center. 63142~~

~~(B) After units have been initially approved for any fiscal 63143
year under section 3317.05 of the Revised Code, no unit shall be 63144
subsequently transferred from a school district or educational 63145
service center to another city, exempted village, local, or 63146
cooperative education school district or educational service 63147
center or to an institution or county DD board solely for the 63148
purpose of reducing the financial obligations of the school 63149
district in a fiscal year it receives payment pursuant to section 63150
3317.04 of the Revised Code. 63151~~

Sec. 3317.053. (A) As used in this section: 63152

(1) "State share percentage" has the same meaning as in 63153
section 3317.022 of the Revised Code. 63154

(2) "Dollar amount" means the amount shown in the following 63155
table for the corresponding type of unit: 63156

TYPE OF UNIT	DOLLAR AMOUNT
Division (B) of section 3317.05	63157 63158

of the Revised Code	\$8,334	63159
Division (C) of that section	\$3,234	63160
Division (E) of that section	\$5,550	63161

(3) "Average unit amount" means the amount shown in the following table for the corresponding type of unit:

TYPE OF UNIT	AVERAGE UNIT AMOUNT	
Division (B) of section 3317.05		63164
of the Revised Code	\$7,799	63165
Division (C) of that section	\$2,966	63166
Division (E) of that section	\$5,251	63167

(B) In the case of each unit described in division (B) ~~or~~ or (C) ~~or (E)~~ of section 3317.05 of the Revised Code and allocated to a city, local, or exempted village school district, the department of education, in addition to the amounts specified in ~~division (E) of section 3317.024 and~~ sections 3317.052 and 3317.19 of the Revised Code, shall pay a supplemental unit allowance equal to the sum of the following amounts:

(1) An amount equal to 50% of the average unit amount for the unit;

(2) An amount equal to the percentage of the dollar amount for the unit that equals the district's state share percentage.

If, prior to the fifteenth day of May of a fiscal year, a school district's aid computed under section 3317.022 of the Revised Code is recomputed pursuant to section 3317.027 or 3317.028 of the Revised Code, the department shall also recompute the district's entitlement to payment under this section utilizing a new state share percentage. Such new state share percentage shall be determined using the district's recomputed basic aid amount pursuant to section 3317.027 or 3317.028 of the Revised Code. During the last six months of the fiscal year, the department shall pay the district a sum equal to one-half of the recomputed payment in lieu of one-half the payment otherwise

calculated under this section. 63191

(C)(1) In the case of each unit allocated to an institution 63192
pursuant to division (A) of section 3317.05 of the Revised Code, 63193
the department, in addition to the amount specified in section 63194
3317.052 of the Revised Code, shall pay a supplemental unit 63195
allowance of \$7,227. 63196

(2) In the case of each unit described in division (B) of 63197
section 3317.05 of the Revised Code that is allocated to any 63198
entity other than a city, exempted village, or local school 63199
district, the department, in addition to the amount specified in 63200
section 3317.052 of the Revised Code, shall pay a supplemental 63201
unit allowance of \$7,799. 63202

(3) In the case of each unit described in division (C) of 63203
section 3317.05 of the Revised Code and allocated to any entity 63204
other than a city, exempted village, or local school district, the 63205
department, in addition to the amounts specified in section 63206
3317.052 of the Revised Code, shall pay a supplemental unit 63207
allowance of \$2,966. 63208

~~(4) In the case of each unit described in division (E) of 63209
section 3317.05 of the Revised Code and allocated to an 63210
educational service center, the department, in addition to the 63211
amounts specified in division (L) of section 3317.024 of the 63212
Revised Code, shall pay a supplemental unit allowance of \$5,251. 63213~~

Sec. 3317.06. Moneys paid to school districts under division 63214
~~(I)~~(E) of section 3317.024 of the Revised Code shall be used for 63215
the following independent and fully severable purposes: 63216

(A) To purchase such secular textbooks or electronic 63217
textbooks as have been approved by the superintendent of public 63218
instruction for use in public schools in the state and to loan 63219
such textbooks or electronic textbooks to pupils attending 63220

nonpublic schools within the district or to their parents and to 63221
hire clerical personnel to administer such lending program. Such 63222
loans shall be based upon individual requests submitted by such 63223
nonpublic school pupils or parents. Such requests shall be 63224
submitted to the school district in which the nonpublic school is 63225
located. Such individual requests for the loan of textbooks or 63226
electronic textbooks shall, for administrative convenience, be 63227
submitted by the nonpublic school pupil or the pupil's parent to 63228
the nonpublic school, which shall prepare and submit collective 63229
summaries of the individual requests to the school district. As 63230
used in this section: 63231

(1) "Textbook" means any book or book substitute that a pupil 63232
uses as a consumable or nonconsumable text, text substitute, or 63233
text supplement in a particular class or program in the school the 63234
pupil regularly attends. 63235

(2) "Electronic textbook" means ~~computer software,~~ 63236
~~interactive videodisc, magnetic media, CD-ROM, computer~~ 63237
~~courseware, local and remote computer assisted instruction,~~ 63238
~~on-line service, electronic medium, or other means of conveying~~ 63239
~~information to the student or otherwise contributing~~ any book or 63240
book substitute that a student accesses through the use of a 63241
computer or other electronic medium or that is available through 63242
an internet-based provider of course content, or any other 63243
material that contributes to the learning process through 63244
electronic means. 63245

(B) To provide speech and hearing diagnostic services to 63246
pupils attending nonpublic schools within the district. Such 63247
service shall be provided in the nonpublic school attended by the 63248
pupil receiving the service. 63249

(C) To provide physician, nursing, dental, and optometric 63250
services to pupils attending nonpublic schools within the 63251
district. Such services shall be provided in the school attended 63252

by the nonpublic school pupil receiving the service. 63253

(D) To provide diagnostic psychological services to pupils 63254
attending nonpublic schools within the district. Such services 63255
shall be provided in the school attended by the pupil receiving 63256
the service. 63257

(E) To provide therapeutic psychological and speech and 63258
hearing services to pupils attending nonpublic schools within the 63259
district. Such services shall be provided in the public school, in 63260
nonpublic schools, in public centers, or in mobile units located 63261
on or off of the nonpublic premises. If such services are provided 63262
in the public school or in public centers, transportation to and 63263
from such facilities shall be provided by the school district in 63264
which the nonpublic school is located. 63265

(F) To provide guidance, counseling, and social work services 63266
to pupils attending nonpublic schools within the district. Such 63267
services shall be provided in the public school, in nonpublic 63268
schools, in public centers, or in mobile units located on or off 63269
of the nonpublic premises. If such services are provided in the 63270
public school or in public centers, transportation to and from 63271
such facilities shall be provided by the school district in which 63272
the nonpublic school is located. 63273

(G) To provide remedial services to pupils attending 63274
nonpublic schools within the district. Such services shall be 63275
provided in the public school, in nonpublic schools, in public 63276
centers, or in mobile units located on or off of the nonpublic 63277
premises. If such services are provided in the public school or in 63278
public centers, transportation to and from such facilities shall 63279
be provided by the school district in which the nonpublic school 63280
is located. 63281

(H) To supply for use by pupils attending nonpublic schools 63282
within the district such standardized tests and scoring services 63283

as are in use in the public schools of the state; 63284

(I) To provide programs for children who attend nonpublic 63285
schools within the district and are children with disabilities as 63286
defined in section 3323.01 of the Revised Code or gifted children. 63287
Such programs shall be provided in the public school, in nonpublic 63288
schools, in public centers, or in mobile units located on or off 63289
of the nonpublic premises. If such programs are provided in the 63290
public school or in public centers, transportation to and from 63291
such facilities shall be provided by the school district in which 63292
the nonpublic school is located. 63293

(J) To hire clerical personnel to assist in the 63294
administration of programs pursuant to divisions (B), (C), (D), 63295
(E), (F), (G), and (I) of this section and to hire supervisory 63296
personnel to supervise the providing of services and textbooks 63297
pursuant to this section. 63298

(K) To purchase or lease any secular, neutral, and 63299
nonideological computer application software ~~(including designed~~ 63300
to assist students in performing a single task or multiple related 63301
tasks, device management software, learning management software, 63302
~~site-licensing), prerecorded video laserdiscs,~~ digital video on 63303
demand (DVD), ~~compact discs, and video cassette cartridges,~~ wide 63304
area connectivity and related technology as it relates to internet 63305
access, mathematics or science equipment and materials, 63306
instructional materials, and school library materials that are in 63307
general use in the public schools of the state and loan such items 63308
to pupils attending nonpublic schools within the district or to 63309
their parents, and to hire clerical personnel to administer the 63310
lending program. Only such items that are incapable of diversion 63311
to religious use and that are susceptible of loan to individual 63312
pupils and are furnished for the use of individual pupils shall be 63313
purchased and loaned under this division. As used in this section, 63314
"instructional materials" means prepared learning materials that 63315

are secular, neutral, and nonideological in character and are of 63316
benefit to the instruction of school children, and may include 63317
educational resources and services developed by the eTech Ohio 63318
commission. 63319

(L) To purchase or lease instructional equipment, including 63320
computer hardware and related equipment in general use in the 63321
public schools of the state, for use by pupils attending nonpublic 63322
schools within the district and to loan such items to pupils 63323
attending nonpublic schools within the district or to their 63324
parents, and to hire clerical personnel to administer the lending 63325
program. "Computer hardware and related equipment" includes 63326
desktop computers and workstations; laptop computers, computer 63327
tablets, and other mobile handheld devices; and their operating 63328
systems and accessories. 63329

(M) To purchase mobile units to be used for the provision of 63330
services pursuant to divisions (E), (F), (G), and (I) of this 63331
section and to pay for necessary repairs and operating costs 63332
associated with these units. 63333

(N) To reimburse costs the district incurred to store the 63334
records of a chartered nonpublic school that closes. 63335
Reimbursements under this division shall be made one time only for 63336
each chartered nonpublic school that closes. 63337

(O) To purchase life-saving medical or other emergency 63338
equipment for placement in nonpublic schools within the district 63339
or to maintain such equipment. 63340

Clerical and supervisory personnel hired pursuant to division 63341
(J) of this section shall perform their services in the public 63342
schools, in nonpublic schools, public centers, or mobile units 63343
where the services are provided to the nonpublic school pupil, 63344
except that such personnel may accompany pupils to and from the 63345
service sites when necessary to ensure the safety of the children 63346

receiving the services. 63347

All services provided pursuant to this section may be 63348
provided under contract with educational service centers, the 63349
department of health, city or general health districts, or private 63350
agencies whose personnel are properly licensed by an appropriate 63351
state board or agency. 63352

Transportation of pupils provided pursuant to divisions (E), 63353
(F), (G), and (I) of this section shall be provided by the school 63354
district from its general funds and not from moneys paid to it 63355
under division ~~(I)~~(E) of section 3317.024 of the Revised Code 63356
unless a special transportation request is submitted by the parent 63357
of the child receiving service pursuant to such divisions. If such 63358
an application is presented to the school district, it may pay for 63359
the transportation from moneys paid to it under division ~~(I)~~(E) of 63360
section 3317.024 of the Revised Code. 63361

No school district shall provide health or remedial services 63362
to nonpublic school pupils as authorized by this section unless 63363
such services are available to pupils attending the public schools 63364
within the district. 63365

Materials, equipment, computer hardware or software, 63366
textbooks, electronic textbooks, and health and remedial services 63367
provided for the benefit of nonpublic school pupils pursuant to 63368
this section and the admission of pupils to such nonpublic schools 63369
shall be provided without distinction as to race, creed, color, or 63370
national origin of such pupils or of their teachers. 63371

No school district shall provide services, materials, or 63372
equipment that contain religious content for use in religious 63373
courses, devotional exercises, religious training, or any other 63374
religious activity. 63375

As used in this section, "parent" includes a person standing 63376
in loco parentis to a child. 63377

Notwithstanding section 3317.01 of the Revised Code, payments 63378
shall be made under this section to any city, local, or exempted 63379
village school district within which is located one or more 63380
nonpublic elementary or high schools and any payments made to 63381
school districts under division ~~(I)~~(E) of section 3317.024 of the 63382
Revised Code for purposes of this section may be disbursed without 63383
submission to and approval of the controlling board. 63384

The allocation of payments for materials, equipment, 63385
textbooks, electronic textbooks, health services, and remedial 63386
services to city, local, and exempted village school districts 63387
shall be on the basis of the state board of education's estimated 63388
annual average daily membership in nonpublic elementary and high 63389
schools located in the district. 63390

Payments made to city, local, and exempted village school 63391
districts under this section shall be equal to specific 63392
appropriations made for the purpose. All interest earned by a 63393
school district on such payments shall be used by the district for 63394
the same purposes and in the same manner as the payments may be 63395
used. 63396

The department of education shall adopt guidelines and 63397
procedures under which such programs and services shall be 63398
provided, under which districts shall be reimbursed for 63399
administrative costs incurred in providing such programs and 63400
services, and under which any unexpended balance of the amounts 63401
appropriated by the general assembly to implement this section may 63402
be transferred to the auxiliary services personnel unemployment 63403
compensation fund established pursuant to section 4141.47 of the 63404
Revised Code. The department shall also adopt guidelines and 63405
procedures limiting the purchase and loan of the items described 63406
in division (K) of this section to items that are in general use 63407
in the public schools of the state, that are incapable of 63408
diversion to religious use, and that are susceptible to individual 63409

use rather than classroom use. Within thirty days after the end of 63410
each biennium, each board of education shall remit to the 63411
department all moneys paid to it under division ~~(I)~~(E) of section 63412
3317.024 of the Revised Code and any interest earned on those 63413
moneys that are not required to pay expenses incurred under this 63414
section during the biennium for which the money was appropriated 63415
and during which the interest was earned. If a board of education 63416
subsequently determines that the remittal of moneys leaves the 63417
board with insufficient money to pay all valid expenses incurred 63418
under this section during the biennium for which the remitted 63419
money was appropriated, the board may apply to the department of 63420
education for a refund of money, not to exceed the amount of the 63421
insufficiency. If the department determines the expenses were 63422
lawfully incurred and would have been lawful expenditures of the 63423
refunded money, it shall certify its determination and the amount 63424
of the refund to be made to the director of job and family 63425
services who shall make a refund as provided in section 4141.47 of 63426
the Revised Code. 63427

Each school district shall label materials, equipment, 63428
computer hardware or software, textbooks, and electronic textbooks 63429
purchased or leased for loan to a nonpublic school under this 63430
section, acknowledging that they were purchased or leased with 63431
state funds under this section. However, a district need not label 63432
materials, equipment, computer hardware or software, textbooks, or 63433
electronic textbooks that the district determines are consumable 63434
in nature or have a value of less than two hundred dollars. 63435

Sec. 3317.061. The superintendent of each school district, 63436
including each cooperative education and joint vocational school 63437
district and the superintendent of each educational service 63438
center, shall, on forms prescribed and furnished by the state 63439
board of education, certify to the state board of education, on or 63440
before the fifteenth day of October of each year, the name of each 63441

licensed employee employed, on an annual salary, in each school 63442
under such superintendent's supervision during the first full 63443
school week of said month of October, the number of years of 63444
recognized college training such licensed employee has completed, 63445
the college degrees from a recognized college earned by such 63446
licensed employee, the type of teaching license held by such 63447
licensed employee, the number of months such licensed employee is 63448
employed in the school district, the annual salary of such 63449
licensed employee, and such other information as the state board 63450
of education may request. For the purposes of ~~Chapters 3306. and~~ 63451
Chapter 3317. of the Revised Code, a licensed employee is any 63452
employee in a position that requires a license issued pursuant to 63453
sections 3319.22 to 3319.31 of the Revised Code. 63454

Pursuant to standards adopted by the state board of 63455
education, experience of vocational teachers in trade and industry 63456
shall be recognized by such board for the purpose of complying 63457
with the requirements of recognized college training provided by 63458
~~Chapters 3306. and~~ Chapter 3317. of the Revised Code. 63459

~~Sec. 3317.07. The state board of education shall establish 63460
rules for the purpose of distributing subsidies for the purchase 63461
of school buses under division (D) of section 3317.024 of the 63462
Revised Code. 63463~~

~~No school bus subsidy payments shall be paid to any district 63464
unless such district can demonstrate that pupils residing more 63465
than one mile from the school could not be transported without 63466
such additional aid. 63467~~

~~The amount paid to a county DD board for buses purchased for 63468
transportation of children in special education programs operated 63469
by the board shall be based on a per pupil allocation for eligible 63470
students. 63471~~

~~The amount paid to a school district for buses purchased for 63472~~

~~transportation of pupils with disabilities and nonpublic school pupils shall be determined by a per pupil allocation based on the number of special education and nonpublic school pupils for whom transportation is provided.~~ 63473
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~~The state board of education shall adopt a formula to determine the amount of payments that shall be distributed to school districts to purchase school buses for pupils other than pupils with disabilities or nonpublic school pupils.~~ 63477
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~~If any district or county DD board obtains bus services for pupil transportation pursuant to a contract, such district or board may use payments received under this section to defray the costs of contracting for bus services in lieu of for purchasing buses.~~ 63481
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If the department of education determines that a county DD board no longer needs a school bus because the board no longer transports children to a special education program operated by the board, or if the department determines that a school district no longer needs a school bus to transport pupils to a nonpublic school or special education program, the department may reassign a bus that was funded with payments provided pursuant to the version of this section in effect prior to the effective date of this amendment for the purpose of transporting such pupils. The department may reassign a bus to a county DD board or school district that transports children to a special education program designated in the children's individualized education plans, or to a school district that transports pupils to a nonpublic school, and needs an additional school bus. 63486
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Sec. 3317.08. A board of education may admit to its schools a child it is not required by section 3313.64 or 3313.65 of the Revised Code to admit, if tuition is paid for the child. 63500
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Unless otherwise provided by law, tuition shall be computed 63503

in accordance with this section. A district's tuition charge for a school year shall be one of the following:

(A) For any child, except a preschool child with a disability described in division (B) of this section, the quotient obtained by dividing the sum of the amounts described in divisions (A)(1) and (2) of this section by the district's formula ADM.

(1) The district's total taxes charged and payable for current expenses for the tax year preceding the tax year in which the school year begins as certified under division (A)(3) of section 3317.021 of the Revised Code.

(2) The district's total taxes collected for current expenses under a school district income tax adopted pursuant to section 5748.03 ~~or~~, 5748.08, or 5748.09 of the Revised Code that are disbursed to the district during the fiscal year, excluding any income tax receipts allocated for the project cost, debt service, or maintenance set-aside associated with a state-assisted classroom facilities project as authorized by section 3318.052 of the Revised Code. On or before the first day of June of each year, the tax commissioner shall certify the amount to be used in the calculation under this division for the next fiscal year to the department of education and the office of budget and management for each city, local, and exempted village school district that levies a school district income tax.

(B) For any preschool child with a disability not included in a unit approved under division (B) of section 3317.05 of the Revised Code, an amount computed for the school year as follows:

(1) For each type of special education service provided to the child for whom tuition is being calculated, determine the amount of the district's operating expenses in providing that type of service to all preschool children with disabilities not included in units approved under division (B) of section 3317.05

of the Revised Code; 63535

(2) For each type of special education service for which 63536
operating expenses are determined under division (B)(1) of this 63537
section, determine the amount of such operating expenses that was 63538
paid from any state funds received under this chapter; 63539

(3) For each type of special education service for which 63540
operating expenses are determined under division (B)(1) of this 63541
section, divide the difference between the amount determined under 63542
division (B)(1) of this section and the amount determined under 63543
division (B)(2) of this section by the total number of preschool 63544
children with disabilities not included in units approved under 63545
division (B) of section 3317.05 of the Revised Code who received 63546
that type of service; 63547

(4) Determine the sum of the quotients obtained under 63548
division (B)(3) of this section for all types of special education 63549
services provided to the child for whom tuition is being 63550
calculated. 63551

The state board of education shall adopt rules defining the 63552
types of special education services and specifying the operating 63553
expenses to be used in the computation under this section. 63554

If any child for whom a tuition charge is computed under this 63555
section for any school year is enrolled in a district for only 63556
part of that school year, the amount of the district's tuition 63557
charge for the child for the school year shall be computed in 63558
proportion to the number of school days the child is enrolled in 63559
the district during the school year. 63560

Except as otherwise provided in division (J) of section 63561
3313.64 of the Revised Code, whenever a district admits a child to 63562
its schools for whom tuition computed in accordance with this 63563
section is an obligation of another school district, the amount of 63564
the tuition shall be certified by the treasurer of the board of 63565

education of the district of attendance, to the board of education 63566
of the district required to pay tuition for its approval and 63567
payment. If agreement as to the amount payable or the district 63568
required to pay the tuition cannot be reached, or the board of 63569
education of the district required to pay the tuition refuses to 63570
pay that amount, the board of education of the district of 63571
attendance shall notify the superintendent of public instruction. 63572
The superintendent shall determine the correct amount and the 63573
district required to pay the tuition and shall deduct that amount, 63574
if any, under division ~~(G)~~(D) of section 3317.023 of the Revised 63575
Code, from the district required to pay the tuition and add that 63576
amount to the amount allocated to the district attended under such 63577
division. The superintendent of public instruction shall send to 63578
the district required to pay the tuition an itemized statement 63579
showing such deductions at the time of such deduction. 63580

When a political subdivision owns and operates an airport, 63581
welfare, or correctional institution or other project or facility 63582
outside its corporate limits, the territory within which the 63583
facility is located is exempt from taxation by the school district 63584
within which such territory is located, and there are school age 63585
children residing within such territory, the political subdivision 63586
owning such tax exempt territory shall pay tuition to the district 63587
in which such children attend school. The tuition for these 63588
children shall be computed as provided for in this section. 63589

Sec. 3317.081. (A) Tuition shall be computed in accordance 63590
with this section if: 63591

(1) The tuition is required by division (C)(3)(b) of section 63592
3313.64 of the Revised Code; or 63593

(2) Neither the child nor the child's parent resides in this 63594
state and tuition is required by section 3327.06 of the Revised 63595
Code. 63596

(B) Tuition computed in accordance with this section shall equal the attendance district's tuition rate computed under section 3317.08 of the Revised Code plus the amount in state education aid that district would have received for the child ~~pursuant to Chapter 3306. and sections 3317.023 and 3317.025 to 3317.0211 of the Revised Code~~ during the school year had the attendance district been authorized to count the child in its formula ADM for that school year under section 3317.03 of the Revised Code.

Sec. 3317.082. As used in this section, "institution" means a residential facility that receives and cares for children maintained by the department of youth services and that operates a school chartered by the state board of education under section 3301.16 of the Revised Code.

(A) On or before the thirty-first day of each January and July, the superintendent of each institution that during the six-month period immediately preceding each January or July provided an elementary or secondary education for any child, other than a child receiving special education under section 3323.091 of the Revised Code, shall prepare and submit to the department of education, a statement for each such child indicating the child's name, any school district responsible to pay tuition for the child as determined by the superintendent in accordance with division (C)(2) or (3) of section 3313.64 of the Revised Code, and the period of time during that six-month period that the child received an elementary or secondary education. If any school district is responsible to pay tuition for any such child, the department of education, no later than the immediately succeeding last day of February or August, as applicable, shall calculate the amount of the tuition of the district under section 3317.08 of the Revised Code for the period of time indicated on the statement and do one of the following:

(1) If the tuition amount is equal to or less than the amount of state basic aid funds payable to the district under Chapter 3306. and section 3317.023 of the Revised Code district's state education aid, pay to the institution submitting the statement an amount equal to the tuition amount, as provided under division ~~(M)~~(G) of section 3317.024 of the Revised Code, and deduct the tuition amount from the state basic aid funds payable to the district, as provided under division ~~(F)~~(C)(2) of section 3317.023 of the Revised Code;

(2) If the tuition amount is greater than the amount of state basic aid funds payable to the district under Chapter 3306. and section 3317.023 of the Revised Code district's state education aid, require the district to pay to the institution submitting the statement an amount equal to the tuition amount.

(B) In the case of any disagreement about the school district responsible to pay tuition for a child pursuant to this section, the superintendent of public instruction shall make the determination in any such case in accordance with division (C)(2) or (3) of section 3313.64 of the Revised Code.

Sec. 3317.09. All moneys distributed to a school district, including any cooperative education or joint vocational school district and all moneys distributed to any educational service center, by the state whether from a state or federal source, shall be accounted for by the division of school finance of the department of education. All moneys distributed shall be coded as to county, school district or educational service center, source, and other pertinent information, and at the end of each month, a report of such distribution shall be made by such division of school finance to each school district and educational service center. If any board of education fails to make the report required in section 3319.33 of the Revised Code, the

superintendent of public instruction shall be without authority to 63660
distribute funds to that school district or educational service 63661
center ~~pursuant to sections 3317.022 to 3317.0211, 3317.11,~~ 63662
~~3317.16, 3317.17, or 3317.19 of the Revised Code under this~~ 63663
chapter until such time as the required reports are filed with all 63664
specified officers, boards, or agencies. 63665

Sec. 3317.11. (A) As used in this section: 63666

(1) "Client school district" means a city or exempted village 63667
school district that has entered into an agreement under section 63668
3313.843 of the Revised Code to receive any services from an 63669
educational service center. 63670

(2) "Service center ADM" means the sum of the total student 63671
counts of all local school districts within an educational service 63672
center's territory and all of the service center's client school 63673
districts. 63674

(3) "STEM school" means a science, technology, engineering, 63675
and mathematics school established under Chapter 3326. of the 63676
Revised Code. 63677

(4) "Total student count" has the same meaning as in section 63678
3301.011 of the Revised Code. 63679

(B)(1) The governing board of each educational service center 63680
shall provide supervisory services to each local school district 63681
within the service center's territory. Each city or exempted 63682
village school district that enters into an agreement under 63683
section 3313.843 of the Revised Code for a governing board to 63684
provide any services also is considered to be provided supervisory 63685
services by the governing board. Except as provided in division 63686
(B)(2) of this section, the supervisory services shall not exceed 63687
one supervisory teacher for the first fifty classroom teachers 63688
required to be employed in the districts, as calculated in the 63689

manner prescribed under former division (B) of section 3317.023 of 63690
the Revised Code, as that division existed prior to the effective 63691
date of this amendment, and one for each additional one hundred 63692
required classroom teachers, as so calculated. 63693

The supervisory services shall be financed annually through 63694
supervisory units. Except as provided in division (B)(2) of this 63695
section, the number of supervisory units assigned to each district 63696
shall not exceed one unit for the first fifty classroom teachers 63697
required to be employed in the district, as calculated in the 63698
manner prescribed under former division (B) of section 3317.023 of 63699
the Revised Code, as that division existed prior to the effective 63700
date of this amendment, and one for each additional one hundred 63701
required classroom teachers, as so calculated. The cost of each 63702
supervisory unit shall be the sum of: 63703

(a) The minimum salary prescribed by section 3317.13 of the 63704
Revised Code for the licensed supervisory employee of the 63705
governing board; 63706

(b) An amount equal to fifteen per cent of ~~the that~~ salary 63707
~~prescribed by section 3317.13 of the Revised Code;~~ 63708

(c) An allowance for necessary travel expenses, limited to 63709
the lesser of two hundred twenty-three dollars and sixteen cents 63710
per month or two thousand six hundred seventy-eight dollars per 63711
year. 63712

(2) If a majority of the boards of education, or 63713
superintendents acting on behalf of the boards, of the local and 63714
client school districts receiving services from the educational 63715
service center agree to receive additional supervisory services 63716
and to pay the cost of a corresponding number of supervisory units 63717
in excess of the services and units specified in division (B)(1) 63718
of this section, the service center shall provide the additional 63719
services as agreed to by the majority of districts to, and the 63720

department of education shall apportion the cost of the 63721
corresponding number of additional supervisory units pursuant to 63722
division (B)(3) of this section among, all of the service center's 63723
local and client school districts. 63724

(3) The department shall apportion the total cost for all 63725
supervisory units among the service center's local and client 63726
school districts based on each district's total student count. The 63727
department shall deduct each district's apportioned share pursuant 63728
to division ~~(E)~~(B) of section 3317.023 of the Revised Code and pay 63729
the apportioned share to the service center. 63730

(C) The department annually shall deduct from each local and 63731
client school district of each educational service center, 63732
pursuant to division ~~(E)~~(B) of section 3317.023 of the Revised 63733
Code, and pay to the service center an amount equal to six dollars 63734
and fifty cents times the school district's total student count. 63735
The board of education, or the superintendent acting on behalf of 63736
the board, of any local or client school district may agree to pay 63737
an amount in excess of six dollars and fifty cents per student in 63738
total student count. If a majority of the boards of education, or 63739
superintendents acting on behalf of the boards, of the local 63740
school districts within a service center's territory approve an 63741
amount in excess of six dollars and fifty cents per student in 63742
total student count, the department shall deduct the approved 63743
excess per student amount from all of the local school districts 63744
within the service center's territory and pay the excess amount to 63745
the service center. 63746

(D) The department shall pay each educational service center 63747
the amounts due to it from school districts pursuant to contracts, 63748
compacts, or agreements under which the service center furnishes 63749
services to the districts or their students. In order to receive 63750
payment under this division, an educational service center shall 63751
furnish either a copy of the contract, compact, or agreement 63752

clearly indicating the amounts of the payments, or a written 63753
statement that clearly indicates the payments owed and is signed 63754
by the superintendent or treasurer of the responsible school 63755
district. The amounts paid to service centers under this division 63756
shall be deducted from payments to school districts pursuant to 63757
division ~~(K)~~(H)(3) of section 3317.023 of the Revised Code. 63758

(E) Each school district's deduction under this section and 63759
divisions ~~(E)~~(B) and ~~(K)~~(H)(3) of section 3317.023 of the Revised 63760
Code shall be made from the total payment computed for the 63761
district under this chapter, after making any other adjustments in 63762
that payment required by law. 63763

(F)(1) Except as provided in division (F)(2) of this section, 63764
the department annually shall pay the governing board of each 63765
educational service center state funds equal to thirty-seven 63766
dollars times its service center ADM. 63767

(2) The department annually shall pay state funds equal to 63768
forty dollars and fifty-two cents times the service center ADM to 63769
each educational service center comprising territory that was 63770
included in the territory of at least three former service centers 63771
or county school districts, which former centers or districts 63772
engaged in one or more mergers under section 3311.053 of the 63773
Revised Code to form the present center. 63774

(G) Each city, exempted village, local, joint vocational, or 63775
cooperative education school district shall pay to the governing 63776
board of an educational service center any amounts agreed to for 63777
each child enrolled in the district who receives special education 63778
and related services or career-technical education from the 63779
educational service center, unless these educational services are 63780
provided pursuant to a contract, compact, or agreement for which 63781
the department deducts and transfers payments under division (D) 63782
of this section and division ~~(K)~~(H)(3) of section 3317.023 of the 63783
Revised Code. 63784

(H) The department annually shall pay the governing board of each educational service center that has entered into a contract with a STEM school for the provision of services described in division (B) of section 3326.45 of the Revised Code state funds equal to the per-pupil amount specified in the contract for the provision of those services times the number of students enrolled in the STEM school.

(I) An educational service center:

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

(2) Is eligible for transportation funding under division ~~(G)~~(C) of section 3317.024 of the Revised Code ~~and for state subsidies for the purchase of school buses under section 3317.07 of the Revised Code;~~

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

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

Sec. 3317.12. Any board of education participating in funds distributed under ~~Chapters 3306. and Chapter~~ Chapter 3317. of the Revised Code shall annually adopt a salary schedule for nonteaching school employees based upon training, experience, and qualifications with initial salaries no less than the salaries in effect on October 13, 1967. Each board of education shall prepare and may amend from time to time, specifications descriptive of duties, responsibilities, requirements, and desirable qualifications of the classifications of employees required to perform the duties specified in the salary schedule. All nonteaching school employees are to be notified of the position classification to which they

are assigned and the salary for the classification. The 63815
compensation of all employees working for a particular school 63816
board shall be uniform for like positions except as compensation 63817
would be affected by salary increments based upon length of 63818
service. 63819

On the fifteenth day of October each year the salary schedule 63820
and the list of job classifications and salaries in effect on that 63821
date shall be filed by each board of education with the 63822
superintendent of public instruction. If such salary schedule and 63823
classification plan is not filed the superintendent of public 63824
instruction shall order the board to file such schedules 63825
forthwith. If this condition is not corrected within ten days 63826
after receipt of the order from the superintendent of public 63827
instruction, no money shall be distributed to the district under 63828
~~Chapters 3306. and Chapter~~ 3317. of the Revised Code until the 63829
superintendent has satisfactory evidence of the board of 63830
education's full compliance with such order. 63831

Sec. 3317.16. (A) As used in this section: 63832

(1) The "total special education weight" for a joint 63833
vocational school district shall be calculated in the same manner 63834
as prescribed in section 3317.022 of the Revised Code. 63835

(2) The "total vocational education weight" for a joint 63836
vocational school district shall be calculated in the same manner 63837
as prescribed in section 3317.022 of the Revised Code. 63838

(3) The "total recognized valuation" of a joint vocational 63839
school district shall be determined by adding the recognized 63840
valuations of all its constituent school districts that were 63841
subject to the joint vocational school district's tax levies for 63842
both the current and preceding tax years. 63843

(4) "Resident district" means the city, local, or exempted 63844

village school district in which a student is entitled to attend 63845
school under section 3313.64 or 3313.65 of the Revised Code. 63846

(5) "Community school" means a community school established 63847
under Chapter 3314. of the Revised Code. 63848

(B) The department of education shall compute and distribute 63849
state base cost funding to each joint vocational school district 63850
for the fiscal year in accordance with the following formula: 63851

(formula amount X formula ADM) - 63852
(.0005 X total recognized valuation) 63853

If the difference obtained under this division is a negative 63854
number, the district's computation shall be zero. 63855

(C)(1) The department shall compute and distribute state 63856
vocational education additional weighted costs funds to each joint 63857
vocational school district in accordance with the following 63858
formula: 63859

state share percentage X formula amount X 63860
total vocational education weight 63861

In each fiscal year, a joint vocational school district 63862
receiving funds under division (C)(1) of this section shall spend 63863
those funds only for the purposes the department designates as 63864
approved for vocational education expenses. Vocational educational 63865
expenses approved by the department shall include only expenses 63866
connected to the delivery of career-technical programming to 63867
career-technical students. The department shall require the joint 63868
vocational school district to report data annually so that the 63869
department may monitor the district's compliance with the 63870
requirements regarding the manner in which funding received under 63871
division (C)(1) of this section may be spent. 63872

(2) The department shall compute for each joint vocational 63873
school district state funds for vocational education associated 63874
services costs in accordance with the following formula: 63875

state share percentage X .05 X 63876
the formula amount X the sum of 63877
categories one and two vocational 63878
education ADM 63879

In any fiscal year, a joint vocational school district 63880
receiving funds under division (C)(2) of this section, or through 63881
a transfer of funds pursuant to division ~~(L)~~(I) of section 63882
3317.023 of the Revised Code, shall spend those funds only for the 63883
purposes that the department designates as approved for vocational 63884
education associated services expenses, which may include such 63885
purposes as apprenticeship coordinators, coordinators for other 63886
vocational education services, vocational evaluation, and other 63887
purposes designated by the department. The department may deny 63888
payment under division (C)(2) of this section to any district that 63889
the department determines is not operating those services or is 63890
using funds paid under division (C)(2) of this section, or through 63891
a transfer of funds pursuant to division ~~(L)~~(I) of section 63892
3317.023 of the Revised Code, for other purposes. 63893

(D)(1) The department shall compute and distribute state 63894
special education and related services additional weighted costs 63895
funds to each joint vocational school district in accordance with 63896
the following formula: 63897

state share percentage X formula amount X 63898
total special education weight 63899

(2)(a) As used in this division, the "personnel allowance" 63900
means thirty thousand dollars in fiscal years 2008 and 2009. 63901

(b) For the provision of speech language pathology services 63902
to students, including students who do not have individualized 63903
education programs prepared for them under Chapter 3323. of the 63904
Revised Code, and for no other purpose, the department shall pay 63905
each joint vocational school district an amount calculated under 63906
the following formula: 63907

(formula ADM divided by 2000) X the personnel 63908
allowance X state share percentage 63909

(3) In any fiscal year, a joint vocational school district 63910
shall spend for purposes that the department designates as 63911
approved for special education and related services expenses at 63912
least the amount calculated as follows: 63913

(formula amount X 63914
the sum of categories one through 63915
six special education ADM) + 63916
(total special education weight X 63917
formula amount) 63918

The purposes approved by the department for special education 63919
expenses shall include, but shall not be limited to, compliance 63920
with state rules governing the education of children with 63921
disabilities, providing services identified in a student's 63922
individualized education program as defined in section 3323.01 of 63923
the Revised Code, provision of speech language pathology services, 63924
and the portion of the district's overall administrative and 63925
overhead costs that are attributable to the district's special 63926
education student population. 63927

The department shall require joint vocational school 63928
districts to report data annually to allow for monitoring 63929
compliance with division (D)(3) of this section. The department 63930
shall annually report to the governor and the general assembly the 63931
amount of money spent by each joint vocational school district for 63932
special education and related services. 63933

(4) In any fiscal year, a joint vocational school district 63934
shall spend for the provision of speech language pathology 63935
services not less than the sum of the amount calculated under 63936
division (D)(1) of this section for the students in the district's 63937
category one special education ADM and the amount calculated under 63938
division (D)(2) of this section. 63939

(E)(1) If a joint vocational school district's costs for a fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all of its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:

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

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

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

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

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

(1 - state share percentage) X
Total special education weight X
~~the formula amount~~ \$5,732

(2) For each student with a disability receiving special education and related services under an individualized education program, as defined in section 3323.01 of the Revised Code, at a joint vocational district, the resident district or, if the student is enrolled in a community school, the community school shall be responsible for the amount of any costs of providing those special education and related services to that student that exceed the sum of the amount calculated for those services attributable to that student under divisions (B), (D), (E), and (G)(1) of this section.

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

(a) The formula amount;

(b) The product of ~~the formula amount~~ \$5,732 times the applicable multiple specified in section ~~3306.11~~ 3317.013 of the Revised Code as that section existed prior to the effective date of this amendment;

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

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

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

(4) If the board of education of the joint vocational school district reports excess costs under division (G)(3) of this section, the department shall pay the amount of excess cost calculated under division (G)(2) of this section to the joint

vocational school district and shall deduct that amount as 64002
provided in division (G)(4)(a) or (b) of this section, as 64003
applicable: 64004

(a) If the student is not enrolled in a community school, the 64005
department shall deduct the amount from the account of the 64006
student's resident district pursuant to division ~~(M)~~(J) of section 64007
3317.023 of the Revised Code. 64008

(b) If the student is enrolled in a community school, the 64009
department shall deduct the amount from the account of the 64010
community school pursuant to section 3314.083 of the Revised Code. 64011

Sec. 3317.18. (A) As used in this section, the terms "Chapter 64012
133. securities," "credit enhancement facilities," "debt charges," 64013
"general obligation," "legislation," "public obligations," and 64014
"securities" have the same meanings as in section 133.01 of the 64015
Revised Code. 64016

(B) The board of education of any school district authorizing 64017
the issuance of securities under section 133.10, 133.301, or 64018
3313.372 of the Revised Code or general obligation Chapter 133. 64019
securities may adopt legislation requesting the state department 64020
of education to approve, and enter into an agreement with the 64021
school district and the primary paying agent or fiscal agent for 64022
such securities providing for, the withholding and deposit of 64023
funds, otherwise due the district under ~~Chapters 3306.~~ and Chapter 64024
3317. of the Revised Code, for the payment of debt service charges 64025
on such securities. 64026

The board of education shall deliver to the state department 64027
a copy of such resolution and any additional pertinent information 64028
the state department may require. 64029

The department of education and the office of budget and 64030
management shall evaluate each request received from a school 64031

district under this section and the department, with the advice 64032
and consent of the director of budget and management, shall 64033
approve or deny each request based on all of the following: 64034

(1) Whether approval of the request will enhance the 64035
marketability of the securities for which the request is made; 64036

(2) Any other pertinent factors or limitations established in 64037
rules made under division (I) of this section, including: 64038

(a) Current and projected obligations of funds due to the 64039
requesting school district under ~~Chapters 3306.~~ and Chapter 3317. 64040
of the Revised Code including obligations of those funds to public 64041
obligations or relevant credit enhancement facilities under this 64042
section, Chapter 133. and section 3313.483 of the Revised Code, 64043
and under any other similar provisions of law; 64044

(b) Whether the department of education or the office of 64045
budget and management has any reason to believe the requesting 64046
school district will be unable to pay when due the debt charges on 64047
the securities for which the request is made. 64048

The department may require a school district to establish 64049
schedules for the payment of all debt charges that take into 64050
account the amount and timing of anticipated distributions of 64051
funds to the district under Chapter 3317. of the Revised Code. 64052

(C) If the department approves the request of a school 64053
district to withhold and deposit funds pursuant to this section, 64054
the department shall enter into a written agreement with the 64055
district and the primary paying agent or fiscal agent for the 64056
securities which shall provide for the withholding of funds 64057
pursuant to this section for the payment of debt charges on those 64058
securities, and may include both of the following: 64059

(1) Provisions for certification by the district to the 64060
department, at a time prior to any date for the payment of 64061
applicable debt charges, whether the district is able to pay those 64062

debt charges when due; 64063

(2) Requirements that the district deposit amounts for the 64064
payment of debt charges on the securities with the primary paying 64065
agent or fiscal agent for the securities prior to the date on 64066
which those debt charge payments are due to the owners or holders 64067
of the securities. 64068

(D) Whenever a district notifies the department of education 64069
that it will be unable to pay debt charges when they are due, 64070
subject to the withholding provisions of this section, or whenever 64071
the applicable paying agent or fiscal agent notifies the 64072
department that it has not timely received from a school district 64073
the full amount needed for the payment when due of those debt 64074
charges to the holders or owners of such securities, the 64075
department shall immediately contact the school district and the 64076
paying agent or fiscal agent to confirm or determine whether the 64077
district is unable to make the required payment by the date on 64078
which it is due. 64079

Upon demand of the treasurer of state while holding a school 64080
district obligation purchased under division (G)(1) of section 64081
135.143 of the Revised Code, the state department of education, 64082
without a request of the school district, shall withhold and 64083
deposit funds pursuant to this section for payment of debt service 64084
charges on that obligation. 64085

If the department confirms or determines that the district 64086
will be unable to make such payment and payment will not be made 64087
pursuant to a credit enhancement facility, the department shall 64088
promptly pay to the applicable primary paying agent or fiscal 64089
agent the lesser of the amount due for debt charges or the amount 64090
due the district for the remainder of the fiscal year under 64091
Chapter 3317. of the Revised Code. If this amount is insufficient 64092
to pay the total amount then due the agent for the payment of debt 64093
charges, the department shall pay to the agent each fiscal year 64094

thereafter, and until the full amount due the agent for unpaid 64095
debt charges is paid in full, the lesser of the remaining amount 64096
due the agent for debt charges or the amount due the district for 64097
the fiscal year under Chapter 3317. of the Revised Code. 64098

(E) The state department may make any payments under this 64099
division by direct deposit of funds by electronic transfer. 64100

Any amount received by a paying agent or fiscal agent under 64101
this section shall be applied only to the payment of debt charges 64102
on the securities of the school district subject to this section 64103
or to the reimbursement to the provider of a credit enhancement 64104
facility that has paid such debt charges. 64105

(F) To the extent a school district whose securities are 64106
subject to this section is unable to pay applicable debt charges 64107
because of the failure to collect property taxes levied for the 64108
payment of those debt charges, the district may transfer to or 64109
deposit into any fund that would have received payments under 64110
~~3306.~~ Chapter 3317. of the Revised Code that were withheld 64111
under this section any such delinquent property taxes when later 64112
collected, provided that transfer or deposit shall be limited to 64113
the amounts withheld from that fund under this section. 64114

(G) The department may make payments under this section to 64115
paying agents or fiscal agents only from and to the extent that 64116
money is appropriated by the general assembly for Chapter 3317. of 64117
the Revised Code or for the purposes of this section. No 64118
securities of a school district to which this section is made 64119
applicable constitute an obligation or a debt or a pledge of the 64120
faith, credit, or taxing power of the state, and the holders or 64121
owners of such securities have no right to have taxes levied or 64122
appropriations made by the general assembly for the payment of 64123
debt charges on those securities, and those securities, if the 64124
department requires, shall contain a statement to that effect. The 64125
agreement for or the actual withholding and payment of moneys 64126

under this section does not constitute the assumption by the state 64127
of any debt of a school district. 64128

(H) In the case of securities subject to the withholding 64129
provisions of this section, the issuing board of education shall 64130
appoint a paying agent or fiscal agent who is not an officer or 64131
employee of the school district. 64132

(I) The department of education, with the advice of the 64133
office of budget and management, may adopt reasonable rules not 64134
inconsistent with this section for the implementation of this 64135
section and division (B) of section 133.25 of the Revised Code as 64136
it relates to the withholding and depositing of payments under 64137
~~Chapters 3306.~~ and Chapter 3317. of the Revised Code to secure 64138
payment of debt charges on school district securities. Those rules 64139
shall include criteria for the evaluation and approval or denial 64140
of school district requests for withholding under this section and 64141
limits on the obligation for the purpose of paying debt charges or 64142
reimbursing credit enhancement facilities of funds otherwise to be 64143
paid to school districts under Chapter 3317. of the Revised Code. 64144

(J) The authority granted by this section is in addition to 64145
and not a limitation on any other authorizations granted by or 64146
pursuant to law for the same or similar purposes. 64147

Sec. 3317.19. (A) As used in this section, "total unit 64148
allowance" means an amount equal to the sum of the following: 64149

(1) The total of the salary allowances for the teachers 64150
employed in the cooperative education school district for all 64151
units approved under division (B) or (C) of section 3317.05 of the 64152
Revised Code. The salary allowance for each unit shall equal the 64153
minimum salary for the teacher of the unit calculated on the basis 64154
of the teacher's training level and years of experience pursuant 64155
to the salary schedule prescribed in the version of section 64156
3317.13 of the Revised Code in effect prior to July 1, 2001. 64157

(2) Fifteen per cent of the total computed under division 64158
(A)(1) of this section; 64159

(3) The total of the unit operating allowances for all 64160
approved units. The amount of each allowance shall equal one of 64161
the following: 64162

(a) Eight thousand twenty-three dollars times the number of 64163
units for preschool children with disabilities or fraction thereof 64164
approved for the year under division (B) of section 3317.05 of the 64165
Revised Code; 64166

(b) Two thousand one hundred thirty-two dollars times the 64167
number of units or fraction thereof approved for the year under 64168
division (C) of section 3317.05 of the Revised Code. 64169

(B) The state board of education shall compute and distribute 64170
to each cooperative education school district for each fiscal year 64171
an amount equal to the sum of the following: 64172

(1) An amount equal to the total of the amounts credited to 64173
the cooperative education school district pursuant to division 64174
~~(K)~~(H) of section 3317.023 of the Revised Code; 64175

(2) The total unit allowance; 64176

(3) An amount for assisting in providing free lunches to 64177
needy children ~~and an amount for assisting needy school districts~~ 64178
~~in purchasing necessary equipment for food preparation~~ pursuant to 64179
division ~~(H)~~(D) of section 3317.024 of the Revised Code. 64180

(C) If a cooperative education school district has had 64181
additional special education units approved for the year under 64182
division (F)(2) of section 3317.03 of the Revised Code, the 64183
district shall receive an additional amount during the last half 64184
of the fiscal year. For each unit, the additional amount shall 64185
equal fifty per cent of the amount computed under division (A) of 64186
this section for a unit approved under division (B) of section 64187

3317.05 of the Revised Code.	64188
Sec. 3317.20. This section does not apply to preschool children with disabilities.	64189 64190
(A) As used in this section:	64191
(1) "Applicable weight" means the multiple specified in section 3306.11 <u>3317.013</u> of the Revised Code for a disability described in that section.	64192 64193 64194
(2) "Child's school district" means the school district in which a child is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.	64195 64196 64197
(3) <u>"State share percentage" means the state share percentage of the child's school district.</u>	64198 64199
(B) Except as provided in division (C) of this section, the department shall annually pay each county DD board for each child with a disability, other than a preschool child with a disability, for whom the county DD board provides special education and related services an amount equal to the formula amount + (state share percentage X formula amount X the applicable weight).	64200 64201 64202 64203 64204 64205
(C) If any school district places with a county DD board more children with disabilities than it had placed with a county DD board in fiscal year 1998, the department shall not make a payment under division (B) of this section for the number of children exceeding the number placed in fiscal year 1998. The department instead shall deduct from the district's payments under this chapter and Chapter 3306. of the Revised Code, and pay to the county DD board, an amount calculated in accordance with the formula prescribed in division (B) of this section for each child over the number of children placed in fiscal year 1998.	64206 64207 64208 64209 64210 64211 64212 64213 64214 64215
(D) The department shall calculate for each county DD board receiving payments under divisions (B) and (C) of this section the	64216 64217

following amounts: 64218

(1) The amount received by the county DD board for approved special education and related services units, other than units for preschool children with disabilities, in fiscal year 1998, divided by the total number of children served in the units that year; 64219
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64221
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(2) The product of the quotient calculated under division (D)(1) of this section times the number of children for whom payments are made under divisions (B) and (C) of this section. 64224
64225
64226

If the amount calculated under division (D)(2) of this section is greater than the total amount calculated under divisions (B) and (C) of this section, the department shall pay the county DD board one hundred per cent of the difference in addition to the payments under divisions (B) and (C) of this section. 64227
64228
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64232

(E) Each county DD board shall report to the department, in the manner specified by the department, the name of each child for whom the county DD board provides special education and related services and the child's school district. 64233
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64236

(F)(1) For the purpose of verifying the accuracy of the payments under this section, the department may request from either of the following entities the data verification code assigned under division (D)(2) of section 3301.0714 of the Revised Code to any child who is placed with a county DD board: 64237
64238
64239
64240
64241

(a) The child's school district; 64242

(b) The independent contractor engaged to create and maintain data verification codes. 64243
64244

(2) Upon a request by the department under division (F)(1) of this section for the data verification code of a child, the child's school district shall submit that code to the department 64245
64246
64247

in the manner specified by the department. If the child has not 64248
been assigned a code, the district shall assign a code to that 64249
child and submit the code to the department by a date specified by 64250
the department. If the district does not assign a code to the 64251
child by the specified date, the department shall assign a code to 64252
the child. 64253

The department annually shall submit to each school district 64254
the name and data verification code of each child residing in the 64255
district for whom the department has assigned a code under this 64256
division. 64257

(3) The department shall not release any data verification 64258
code that it receives under division (F) of this section to any 64259
person except as provided by law. 64260

(G) Any document relative to special education and related 64261
services provided by a county DD board that the department holds 64262
in its files that contains both a student's name or other 64263
personally identifiable information and the student's data 64264
verification code shall not be a public record under section 64265
149.43 of the Revised Code. 64266

Sec. 3317.201. This section does not apply to preschool 64267
children with disabilities. 64268

(A) As used in this section, the "total special education 64269
weight" for an institution means the sum of the following amounts: 64270

(1) The number of children reported by the institution under 64271
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 64272
receiving services for a disability described in division 64273
~~(D)(1)(A)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 64274
multiplied by the multiple specified in that division; 64275

(2) The number of children reported by the institution under 64276
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 64277

receiving services for a disability described in division 64278
~~(D)(2)(B)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 64279
multiplied by the multiple specified in that division; 64280

(3) The number of children reported by the institution under 64281
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 64282
receiving services for a disability described in division 64283
~~(D)(3)(C)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 64284
multiplied by the multiple specified in that division; 64285

(4) The number of children reported by the institution under 64286
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 64287
receiving services for a disability described in division ~~(D)(4)~~ 64288
of section ~~3306.02~~ 3317.013 of the Revised Code multiplied by the 64289
multiple specified in that division; 64290

(5) The number of children reported by the institution under 64291
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 64292
receiving services for a disability described in division 64293
~~(D)(5)(E)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 64294
multiplied by the multiple specified in that division; 64295

(6) The number of children reported by the institution under 64296
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 64297
receiving services for a disability described in division 64298
~~(D)(6)(F)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 64299
multiplied by the multiple specified in that division. 64300

(B) For each fiscal year, the department of education shall 64301
pay each state institution required to provide special education 64302
services under division (A) of section 3323.091 of the Revised 64303
Code an amount equal to the greater of: 64304

(1) The formula amount times the institution's total special 64305
education weight; 64306

(2) The aggregate amount of special education and related 64307
services unit funding the institution received for all children 64308

with disabilities other than preschool children with disabilities 64309
in fiscal year 2005 under sections 3317.052 and 3317.053 of the 64310
Revised Code, as those sections existed prior to June 30, 2005. 64311

Sec. 3318.011. For purposes of providing assistance under 64312
sections 3318.01 to 3318.20 of the Revised Code, the department of 64313
education shall annually do all of the following: 64314

(A) Calculate the adjusted valuation per pupil of each city, 64315
local, and exempted village school district according to the 64316
following formula: 64317

The district's valuation per pupil - 64318
[\$30,000 X (1 - the district's income factor)]. 64319

For purposes of this calculation: 64320

(1) Except for a district with an open enrollment net gain 64321
that is ten per cent or more of its formula ADM, "valuation per 64322
pupil" for a district means its average taxable value, divided by 64323
its formula ADM for the previous fiscal year. "Valuation per 64324
pupil," for a district with an open enrollment net gain that is 64325
ten per cent or more of its formula ADM, means its average taxable 64326
value, divided by the sum of its formula ADM for the previous 64327
fiscal year plus its open enrollment net gain for the previous 64328
fiscal year. 64329

(2) "Average Except for a tangible personal property 64330
phase-out impacted district, "average taxable value" means the 64331
average of the sum of the amounts certified for a district under 64332
divisions (A)(1) and (2) of section 3317.021 of the Revised Code 64333
in the second, third, and fourth preceding fiscal years. For a 64334
tangible personal property phase-out impacted district, "average 64335
taxable value" means the average of the sum of the amounts 64336
certified for the district under division (A)(1) and as public 64337
utility personal property under division (A)(2) of section 64338
3317.021 of the Revised Code in the second, third, and fourth 64339

preceding fiscal years. 64340

(3) "Entitled to attend school" means entitled to attend 64341
school in a city, local, or exempted village school district under 64342
section 3313.64 or 3313.65 of the Revised Code. 64343

(4) "Formula ADM" and "income factor" have the same meanings 64344
as in section 3317.02 of the Revised Code. 64345

(5) "Native student" has the same meaning as in section 64346
3313.98 of the Revised Code. 64347

(6) "Open enrollment net gain" for a district means (a) the 64348
number of the students entitled to attend school in another 64349
district but who are enrolled in the schools of the district under 64350
its open enrollment policy minus (b) the number of the district's 64351
native students who are enrolled in the schools of another 64352
district under the other district's open enrollment policy, both 64353
numbers as certified to the department under section 3313.981 of 64354
the Revised Code. If the difference is a negative number, the 64355
district's "open enrollment net gain" is zero. 64356

(7) "Open enrollment policy" means an interdistrict open 64357
enrollment policy adopted under section 3313.98 of the Revised 64358
Code. 64359

(8) "Tangible personal property phase-out impacted district" 64360
means a school district for which the taxable value of its 64361
tangible personal property certified under division (A)(2) of 64362
section 3317.021 of the Revised Code for tax year 2005, excluding 64363
the taxable value of public utility personal property, made up 64364
eighteen per cent or more of its total taxable value for tax year 64365
2005 as certified under that section. 64366

(B) Calculate for each district the three-year average of the 64367
adjusted valuations per pupil calculated for the district for the 64368
current and two preceding fiscal years; 64369

(C) Rank all such districts in order of adjusted valuation per pupil from the district with the lowest three-year average adjusted valuation per pupil to the district with the highest three-year average adjusted valuation per pupil;

(D) Divide such ranking into percentiles with the first percentile containing the one per cent of school districts having the lowest three-year average adjusted valuations per pupil and the one-hundredth percentile containing the one per cent of school districts having the highest three-year average adjusted valuations per pupil;

(E) Determine the school districts that have three-year average adjusted valuations per pupil that are greater than the median three-year average adjusted valuation per pupil for all school districts in the state;

(F) On or before the first day of September, certify the information described in divisions (A) to (E) of this section to the Ohio school facilities commission.

Sec. 3318.032. (A) Except as otherwise provided in divisions (C) and (D) of this section, the portion of the basic project cost supplied by the school district shall be the greater of:

(1) The required percentage of the basic project costs;

(2)(a) For all districts except a district that opts to divide its entire classroom facilities needs into segments to be completed separately as authorized by section 3318.034 of the Revised Code, an amount necessary to raise the school district's net bonded indebtedness, as of the date the controlling board approved the project, to within five thousand dollars of the required level of indebtedness;

(b) For a district that opts to divide its entire classroom facilities needs into segments to be completed separately as

authorized by section 3318.034 of the Revised Code, an amount 64400
necessary to raise the school district's net bonded indebtedness, 64401
as of the date the controlling board approved the project, to 64402
within five thousand dollars of the following: 64403

The required level of indebtedness X (the basic 64404
project cost of the segment as approved 64405
by the controlling board / the estimated basic 64406
project cost of the district's entire classroom facilities 64407
needs as determined jointly by the staff of the Ohio 64408
school facilities commission and the district) 64409

(B) The amount of the district's share determined under this 64410
section shall be calculated only as of the date the controlling 64411
board approved the project, and that amount applies throughout the 64412
~~one-year~~ thirteen-month period permitted under section 3318.05 of 64413
the Revised Code for the district's electors to approve the 64414
propositions described in that section. If the amount reserved and 64415
encumbered for a project is released because the electors do not 64416
approve those propositions within that ~~year~~ period, and the school 64417
district later receives the controlling board's approval for the 64418
project, subject to a new project scope and estimated costs under 64419
section 3318.054 of the Revised Code, the district's portion shall 64420
be recalculated in accordance with this section as of the date of 64421
the controlling board's subsequent approval. 64422

(C) At no time shall a school district's portion of the basic 64423
project cost be greater than ninety-five per cent of the total 64424
basic project cost. 64425

(D) If the controlling board approves a project under 64426
sections 3318.01 to 3318.20 of the Revised Code for a school 64427
district that previously received assistance under those sections 64428
or section 3318.37 of the Revised Code within the twenty-year 64429
period prior to the date on which the controlling board approves 64430
the new project, the district's portion of the basic project cost 64431

for the new project shall be the lesser of the following: 64432

(1) The portion calculated under division (A) of this 64433
section; 64434

(2) The greater of the following: 64435

(a) The required percentage of the basic project costs for 64436
the new project; 64437

(b) The percentage of the basic project cost paid by the 64438
district for the previous project. 64439

Sec. 3318.034. (A) This section applies to both of the 64440
following: 64441

(1) Any school district that has not executed an agreement 64442
for a project under sections 3318.01 to 3318.20 of the Revised 64443
Code prior to ~~the effective date of this section~~ June 24, 2008; 64444

(2) Any school district that is eligible for additional 64445
assistance under sections 3318.01 to 3318.20 of the Revised Code 64446
pursuant to division (B)(2) of section 3318.04 of the Revised 64447
Code. 64448

Notwithstanding any provision of this chapter to the 64449
contrary, with the approval of the Ohio school facilities 64450
commission, any school district to which this section applies may 64451
opt to divide the district's entire classroom facilities needs, as 64452
those needs are jointly determined by the staff of the commission 64453
and the school district, into discrete segments and shall comply 64454
with all of the provisions of those sections unless otherwise 64455
provided in this section. 64456

(B) ~~Each~~ Except as provided in division (C) of this section, 64457
each segment shall comply with all of the following: 64458

(1) The segment shall consist of the new construction of one 64459
or more entire buildings or the complete renovation of one or more 64460

entire existing buildings, with any necessary additions to that building. 64461
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(2) The segment shall not include any construction of or renovation or repair to any building that does not complete the needs of the district with respect to that particular building at the time the segment is completed. 64463
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(3) The segment shall consist of new construction, renovations, additions, reconstruction, or repair of classroom facilities to the extent that the school district portion, as determined under section 3318.032 of the Revised Code, is an amount not less than the product of 0.040 times the district's valuation at the time the agreement for the segment is executed, unless the district previously has undertaken a segment under this section and the district's portion of the estimated basic project cost of the remainder of its entire classroom facilities needs, as determined jointly by the staff of the commission and the district, is less than the amount otherwise required by this division. 64467
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(C) A district described in division (A)(2) of this section that has not received the additional assistance authorized under division (B)(2) of section 3318.04 of the Revised Code may undertake a segment, with commission approval, for the purpose of renovating or replacing work performed on a facility under the district's prior project. The commission may approve that segment if the commission determines that the renovation or replacement is necessary to protect the facility. The basic project cost of the segment shall be allocated between the state and the district in accordance with section 3318.032 of the Revised Code. However, the requirements of division (B) of this section shall not apply to a segment undertaken under this division. 64479
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(D) The commission shall conditionally approve and seek controlling board approval in accordance with division (A) of 64491
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section 3318.04 of the Revised Code of each segment. 64493

~~(D)~~(E) The school district's maintenance levy requirement, as 64494
defined in section 3318.18 of the Revised Code, shall run for 64495
twenty-three years from the date the first segment is undertaken; 64496
however, the maintenance levy requirement does not apply to a 64497
segment undertaken under division (C) of this section. 64498

Sec. 3318.05. The conditional approval of the Ohio school 64499
facilities commission for a project shall lapse and the amount 64500
reserved and encumbered for such project shall be released unless 64501
the school district board accepts such conditional approval within 64502
one hundred twenty days following the date of certification of the 64503
conditional approval to the school district board and the electors 64504
of the school district vote favorably on both of the propositions 64505
described in divisions (A) and (B) of this section within ~~one year~~ 64506
thirteen months of the date of such certification, except that a 64507
school district described in division (C) of this section does not 64508
need to submit the proposition described in division (B) of this 64509
section. The propositions described in divisions (A) and (B) of 64510
this section shall be combined in a single proposal. If the 64511
district board or the district's electors fail to meet such 64512
requirements and the amount reserved and encumbered for the 64513
district's project is released, the district shall be given first 64514
priority for project funding as such funds become available, 64515
subject to section 3318.054 of the Revised Code. 64516

(A) On the question of issuing bonds of the school district 64517
board, for the school district's portion of the basic project 64518
cost, in an amount equal to the school district's portion of the 64519
basic project cost less the amount of the proceeds of any 64520
securities authorized or to be authorized under division (J) of 64521
section 133.06 of the Revised Code and dedicated by the school 64522
district board to payment of the district's portion of the basic 64523

project cost; and 64524

(B) On the question of levying a tax the proceeds of which 64525
shall be used to pay the cost of maintaining the classroom 64526
facilities included in the project. Such tax shall be at the rate 64527
of not less than one-half mill for each dollar of valuation for a 64528
period of twenty-three years, subject to any extension approved 64529
under section 3318.061 of the Revised Code. 64530

(C) If a school district has in place a tax levied under 64531
section 5705.21 of the Revised Code for general permanent 64532
improvements for a continuing period of time and the proceeds of 64533
such tax can be used for maintenance, or if a district agrees to 64534
the transfers described in section 3318.051 of the Revised Code, 64535
the school district need not levy the additional tax required 64536
under division (B) of this section, provided the school district 64537
board includes in the agreement entered into under section 3318.08 64538
of the Revised Code provisions either: 64539

(1) Earmarking an amount from the proceeds of that permanent 64540
improvement tax for maintenance of classroom facilities equivalent 64541
to the amount of the additional tax and for the equivalent number 64542
of years otherwise required under this section; 64543

(2) Requiring the transfer of money in accordance with 64544
section 3318.051 of the Revised Code. 64545

The district board subsequently may rescind the agreement to 64546
make the transfers under section 3318.051 of the Revised Code only 64547
so long as the electors of the district have approved, in 64548
accordance with section 3318.063 of the Revised Code, the levy of 64549
a tax for the maintenance of the classroom facilities acquired 64550
under the district's project and that levy continues to be 64551
collected as approved by the electors. 64552

(D) Proceeds of the tax to be used for maintenance of the 64553
classroom facilities under either division (B) or (C)(1) of this 64554

section, and transfers of money in accordance with section 64555
3318.051 of the Revised Code shall be deposited into a separate 64556
fund established by the school district for such purpose. 64557

Sec. 3318.051. (A) Any city, exempted village, or local 64558
school district that commences a project under sections 3318.01 to 64559
3318.20, 3318.36, 3318.37, or 3318.38 of the Revised Code on or 64560
after September 5, 2006, need not levy the tax otherwise required 64561
under division (B) of section 3318.05 of the Revised Code, if the 64562
district board of education adopts a resolution petitioning the 64563
Ohio school facilities commission to approve the transfer of money 64564
in accordance with this section and the commission approves that 64565
transfer. If so approved, the commission and the district board 64566
shall enter into an agreement under which the board, in each of 64567
twenty-three consecutive years beginning in the year in which the 64568
board and the commission enter into the project agreement under 64569
section 3318.08 of the Revised Code, shall transfer into the 64570
maintenance fund required by division (D) of section 3318.05 of 64571
the Revised Code not less than an amount equal to one-half mill 64572
for each dollar of the district's valuation unless and until the 64573
agreement to make those transfers is rescinded by the district 64574
board pursuant to division (F) of this section. 64575

(B) On the first day of July each year, or on an alternative 64576
date prescribed by the commission, the district treasurer shall 64577
certify to the commission and the auditor of state that the amount 64578
required for the year has been transferred. The auditor of state 64579
shall include verification of the transfer as part of any audit of 64580
the district under section 117.11 of the Revised Code. If the 64581
auditor of state finds that less than the required amount has been 64582
deposited into a district's maintenance fund, the auditor of state 64583
shall notify the district board of education in writing of that 64584
fact and require the board to deposit into the fund, within ninety 64585
days after the date of the notice, the amount by which the fund is 64586

deficient for the year. If the district board fails to demonstrate 64587
to the auditor of state's satisfaction that the board has made the 64588
deposit required in the notice, the auditor of state shall notify 64589
the department of education. At that time, the department shall 64590
withhold an amount equal to ten per cent of the district's funds 64591
calculated for the current fiscal year under ~~Chapters 3306. and~~ 64592
Chapter 3317. of the Revised Code until the auditor of state 64593
notifies the department that the auditor of state is satisfied 64594
that the board has made the required transfer. 64595

(C) Money transferred to the maintenance fund shall be used 64596
for the maintenance of the facilities acquired under the 64597
district's project. 64598

(D) The transfers to the maintenance fund under this section 64599
does not affect a district's obligation to establish and maintain 64600
a capital and maintenance fund under section 3315.18 of the 64601
Revised Code. 64602

(E) Any decision by the commission to approve or not approve 64603
the transfer of money under this section is final and not subject 64604
to appeal. The commission shall not be responsible for errors or 64605
miscalculations made in deciding whether to approve a petition to 64606
make transfers under this section. 64607

(F) If the district board determines that it no longer can 64608
continue making the transfers agreed to under this section, the 64609
board may rescind the agreement only so long as the electors of 64610
the district have approved, in accordance with section 3318.063 of 64611
the Revised Code, the levy of a tax for the maintenance of the 64612
classroom facilities acquired under the district's project and 64613
that levy continues to be collected as approved by the electors. 64614
That levy shall be for a number of years that is equal to the 64615
difference between twenty-three years and the number of years that 64616
the district made transfers under this section and shall be at the 64617
rate of not less than one-half mill for each dollar of the 64618

district's valuation. The district board shall continue to make 64619
the transfers agreed to under this section until that levy has 64620
been approved by the electors. 64621

Sec. 3318.054. (A) If conditional approval of a city, 64622
exempted village, or local school district's project lapses as 64623
provided in section 3318.05 of the Revised Code, or if conditional 64624
approval of a joint vocational school district's project lapses as 64625
provided in division (D) of section 3318.41 of the Revised Code, 64626
because the district's electors have not approved the ballot 64627
measures necessary to generate the district's portion of the basic 64628
project cost, and if the district board desires to seek a new 64629
conditional approval of the project, the district board shall 64630
request that the Ohio school facilities commission set the scope, 64631
basic project cost, and school district portion of the basic 64632
project cost prior to resubmitting the ballot measures to the 64633
electors. To do so, the commission shall use the district's 64634
current assessed tax valuation and the district's percentile for 64635
the prior fiscal year. For a district that has entered into an 64636
agreement under section 3318.36 of the Revised Code and desires to 64637
proceed with a project under sections 3318.01 to 3318.20 of the 64638
Revised Code, the district's portion of the basic project cost 64639
shall be the percentage specified in that agreement. The project 64640
scope and basic costs established under this division shall be 64641
valid for one year from the date the commission approves them. 64642

(B) Upon the commission's approval under division (A) of this 64643
section, the district board may submit the ballot measures to the 64644
district's electors for approval of the project based on the new 64645
project scope and estimated costs. Upon electoral approval of 64646
those measures, the district shall be given first priority for 64647
project funding as such funds become available. 64648

(C) When the commission determines that funds are available 64649

for the district's project, the commission shall do all of the 64650
following: 64651

(1) Determine the school district portion of the basic 64652
project cost under section 3318.032 of the Revised Code, in the 64653
case of a city, exempted village, or local school district, or 64654
under section 3318.42 of the Revised Code, in the case of a joint 64655
vocational school district; 64656

(2) Conditionally approve the project and submit it to the 64657
controlling board for approval pursuant to section 3318.04 of the 64658
Revised Code; 64659

(3) Encumber funds for the project under section 3318.11 of 64660
the Revised Code; 64661

(4) Enter into an agreement with the district board under 64662
section 3318.08 of the Revised Code. 64663

Sec. 3318.08. Except in the case of a joint vocational school 64664
district that receives assistance under sections 3318.40 to 64665
3318.45 of the Revised Code, if the requisite favorable vote on 64666
the election is obtained, or if the school district board has 64667
resolved to apply the proceeds of a property tax levy or the 64668
proceeds of an income tax, or a combination of proceeds from such 64669
taxes, as authorized in section 3318.052 of the Revised Code, the 64670
Ohio school facilities commission, upon certification to it of 64671
either the results of the election or the resolution under section 64672
3318.052 of the Revised Code, shall enter into a written agreement 64673
with the school district board for the construction and sale of 64674
the project. In the case of a joint vocational school district 64675
that receives assistance under sections 3318.40 to 3318.45 of the 64676
Revised Code, if the school district board of education and the 64677
school district electors have satisfied the conditions prescribed 64678
in division (D)(1) of section 3318.41 of the Revised Code, the 64679
commission shall enter into an agreement with the school district 64680

board for the construction and sale of the project. In either 64681
case, the agreement shall include, but need not be limited to, the 64682
following provisions: 64683

(A) The sale and issuance of bonds or notes in anticipation 64684
thereof, as soon as practicable after the execution of the 64685
agreement, in an amount equal to the school district's portion of 64686
the basic project cost, including any securities authorized under 64687
division (J) of section 133.06 of the Revised Code and dedicated 64688
by the school district board to payment of the district's portion 64689
of the basic project cost of the project; provided, that if at 64690
that time the county treasurer of each county in which the school 64691
district is located has not commenced the collection of taxes on 64692
the general duplicate of real and public utility property for the 64693
year in which the controlling board approved the project, the 64694
school district board shall authorize the issuance of a first 64695
installment of bond anticipation notes in an amount specified by 64696
the agreement, which amount shall not exceed an amount necessary 64697
to raise the net bonded indebtedness of the school district as of 64698
the date of the controlling board's approval to within five 64699
thousand dollars of the required level of indebtedness for the 64700
preceding year. In the event that a first installment of bond 64701
anticipation notes is issued, the school district board shall, as 64702
soon as practicable after the county treasurer of each county in 64703
which the school district is located has commenced the collection 64704
of taxes on the general duplicate of real and public utility 64705
property for the year in which the controlling board approved the 64706
project, authorize the issuance of a second and final installment 64707
of bond anticipation notes or a first and final issue of bonds. 64708

The combined value of the first and second installment of 64709
bond anticipation notes or the value of the first and final issue 64710
of bonds shall be equal to the school district's portion of the 64711
basic project cost. The proceeds of any such bonds shall be used 64712

first to retire any bond anticipation notes. Otherwise, the 64713
proceeds of such bonds and of any bond anticipation notes, except 64714
the premium and accrued interest thereon, shall be deposited in 64715
the school district's project construction fund. In determining 64716
the amount of net bonded indebtedness for the purpose of fixing 64717
the amount of an issue of either bonds or bond anticipation notes, 64718
gross indebtedness shall be reduced by moneys in the bond 64719
retirement fund only to the extent of the moneys therein on the 64720
first day of the year preceding the year in which the controlling 64721
board approved the project. Should there be a decrease in the tax 64722
valuation of the school district so that the amount of 64723
indebtedness that can be incurred on the tax duplicates for the 64724
year in which the controlling board approved the project is less 64725
than the amount of the first installment of bond anticipation 64726
notes, there shall be paid from the school district's project 64727
construction fund to the school district's bond retirement fund to 64728
be applied against such notes an amount sufficient to cause the 64729
net bonded indebtedness of the school district, as of the first 64730
day of the year following the year in which the controlling board 64731
approved the project, to be within five thousand dollars of the 64732
required level of indebtedness for the year in which the 64733
controlling board approved the project. The maximum amount of 64734
indebtedness to be incurred by any school district board as its 64735
share of the cost of the project is either an amount that will 64736
cause its net bonded indebtedness, as of the first day of the year 64737
following the year in which the controlling board approved the 64738
project, to be within five thousand dollars of the required level 64739
of indebtedness, or an amount equal to the required percentage of 64740
the basic project costs, whichever is greater. All bonds and bond 64741
anticipation notes shall be issued in accordance with Chapter 133. 64742
of the Revised Code, and notes may be renewed as provided in 64743
section 133.22 of the Revised Code. 64744

(B) The transfer of such funds of the school district board 64745

available for the project, together with the proceeds of the sale 64746
of the bonds or notes, except premium, accrued interest, and 64747
interest included in the amount of the issue, to the school 64748
district's project construction fund; 64749

(C) For all school districts except joint vocational school 64750
districts that receive assistance under sections 3318.40 to 64751
3318.45 of the Revised Code, the following provisions as 64752
applicable: 64753

(1) If section 3318.052 of the Revised Code applies, the 64754
earmarking of the proceeds of a tax levied under section 5705.21 64755
of the Revised Code for general permanent improvements or under 64756
section 5705.218 of the Revised Code for the purpose of permanent 64757
improvements, or the proceeds of a school district income tax 64758
levied under Chapter 5748. of the Revised Code, or the proceeds 64759
from a combination of those two taxes, in an amount to pay all or 64760
part of the service charges on bonds issued to pay the school 64761
district portion of the project and an amount equivalent to all or 64762
part of the tax required under division (B) of section 3318.05 of 64763
the Revised Code; 64764

(2) If section 3318.052 of the Revised Code does not apply, 64765
one of the following: 64766

(a) The levy of the tax authorized at the election for the 64767
payment of maintenance costs, as specified in division (B) of 64768
section 3318.05 of the Revised Code; 64769

(b) If the school district electors have approved a 64770
continuing tax for general permanent improvements under section 64771
5705.21 of the Revised Code and that tax can be used for 64772
maintenance, the earmarking of an amount of the proceeds from such 64773
tax for maintenance of classroom facilities as specified in 64774
division (B) of section 3318.05 of the Revised Code; 64775

(c) If, in lieu of the tax otherwise required under division 64776

(B) of section 3318.05 of the Revised Code, the commission has 64777
approved the transfer of money to the maintenance fund in 64778
accordance with section 3318.051 of the Revised Code, a 64779
requirement that the district board comply with the provisions 64780
that section. The district board may rescind the provision 64781
prescribed under division (C)(2)(c) of this section only so long 64782
as the electors of the district have approved, in accordance with 64783
section 3318.063 of the Revised Code, the levy of a tax for the 64784
maintenance of the classroom facilities acquired under the 64785
district's project and that levy continues to be collected as 64786
approved by the electors. 64787

(D) For joint vocational school districts that receive 64788
assistance under sections 3318.40 to 3318.45 of the Revised Code, 64789
provision for deposit of school district moneys dedicated to 64790
maintenance of the classroom facilities acquired under those 64791
sections as prescribed in section 3318.43 of the Revised Code; 64792

(E) Dedication of any local donated contribution as provided 64793
for under section 3318.084 of the Revised Code, including a 64794
schedule for depositing such moneys applied as an offset of the 64795
district's obligation to levy the tax described in division (B) of 64796
section 3318.05 of the Revised Code as required under division 64797
(D)(2) of section 3318.084 of the Revised Code; 64798

(F) Ownership of or interest in the project during the period 64799
of construction, which shall be divided between the commission and 64800
the school district board in proportion to their respective 64801
contributions to the school district's project construction fund; 64802

(G) Maintenance of the state's interest in the project until 64803
any obligations issued for the project under section 3318.26 of 64804
the Revised Code are no longer outstanding; 64805

(H) The insurance of the project by the school district from 64806
the time there is an insurable interest therein and so long as the 64807

state retains any ownership or interest in the project pursuant to 64808
division (F) of this section, in such amounts and against such 64809
risks as the commission shall require; provided, that the cost of 64810
any required insurance until the project is completed shall be a 64811
part of the basic project cost; 64812

(I) The certification by the director of budget and 64813
management that funds are available and have been set aside to 64814
meet the state's share of the basic project cost as approved by 64815
the controlling board pursuant to either section 3318.04 or 64816
division (B)(1) of section 3318.41 of the Revised Code; 64817

(J) Authorization of the school district board to advertise 64818
for and receive construction bids for the project, for and on 64819
behalf of the commission, and to award contracts in the name of 64820
the state subject to approval by the commission; 64821

(K) Provisions for the disbursement of moneys from the school 64822
district's project account upon issuance by the commission or the 64823
commission's designated representative of vouchers for work done 64824
to be certified to the commission by the treasurer of the school 64825
district board; 64826

(L) Disposal of any balance left in the school district's 64827
project construction fund upon completion of the project; 64828

(M) Limitations upon use of the project or any part of it so 64829
long as any obligations issued to finance the project under 64830
section 3318.26 of the Revised Code are outstanding; 64831

(N) Provision for vesting the state's interest in the project 64832
to the school district board when the obligations issued to 64833
finance the project under section 3318.26 of the Revised Code are 64834
outstanding; 64835

(O) Provision for deposit of an executed copy of the 64836
agreement in the office of the commission; 64837

(P) Provision for termination of the contract and release of 64838
the funds encumbered at the time of the conditional approval, if 64839
the proceeds of the sale of the bonds of the school district board 64840
are not paid into the school district's project construction fund 64841
and if bids for the construction of the project have not been 64842
taken within such period after the execution of the agreement as 64843
may be fixed by the commission; 64844

(Q) Provision for the school district to maintain the project 64845
in accordance with a plan approved by the commission; 64846

~~(R)(1) For all school districts except a district undertaking~~ 64847
~~a project under section 3318.38 of the Revised Code or a joint~~ 64848
~~vocational school district undertaking a project under sections~~ 64849
~~3318.40 to 3318.45 of the Revised Code, provision~~ Provision that 64850
all state funds reserved and encumbered to pay the state share of 64851
the cost of the project pursuant to section 3318.03 of the Revised 64852
Code be spent on the construction or acquisition of the project 64853
prior to the expenditure of any and the funds provided by the 64854
school district to pay for its share of the project cost, ~~unless~~ 64855
including the respective shares of the cost of a segment if the 64856
project is divided into segments, be spent on the construction and 64857
acquisition of the project or segment simultaneously in proportion 64858
to the state's and the school district's respective shares of that 64859
basic project cost as determined under section 3318.032 of the 64860
Revised Code or, if the district is a joint vocational school 64861
district, under section 3318.42 of the Revised Code. However, if 64862
the school district certifies to the commission that expenditure 64863
by the school district is necessary to maintain the federal tax 64864
status or tax-exempt status of notes or bonds issued by the school 64865
district to pay for its share of the project cost or to comply 64866
with applicable temporary investment periods or spending 64867
exceptions to rebate as provided for under federal law in regard 64868
to those notes or bonds, ~~in which cases,~~ the school district may 64869

commit to spend, or spend, a greater portion of the funds it 64870
provides+ 64871

~~(2) For a school district undertaking a project under section 64872
3318.38 of the Revised Code or a joint vocational school district 64873
undertaking a project under sections 3318.40 to 3318.45 of the 64874
Revised Code, provision that the state funds reserved and 64875
encumbered and the funds provided by the school district to pay 64876
the basic project cost of any segment of the project, or of the 64877
entire project if it is not divided into segments, be spent on the 64878
construction and acquisition of the project simultaneously in 64879
proportion to the state's and the school district's respective 64880
shares of that basic project cost as determined under section 64881
3318.032 of the Revised Code or, if the district is a joint 64882
vocational school district, under section 3318.42 of the Revised 64883
Code during any specific period than would otherwise be required 64884
under this division. 64885~~

(S) A provision stipulating that the commission may prohibit 64886
the district from proceeding with any project if the commission 64887
determines that the site is not suitable for construction 64888
purposes. The commission may perform soil tests in its 64889
determination of whether a site is appropriate for construction 64890
purposes. 64891

(T) A provision stipulating that, unless otherwise authorized 64892
by the commission, any contingency reserve portion of the 64893
construction budget prescribed by the commission shall be used 64894
only to pay costs resulting from unforeseen job conditions, to 64895
comply with rulings regarding building and other codes, to pay 64896
costs related to design clarifications or corrections to contract 64897
documents, and to pay the costs of settlements or judgments 64898
related to the project as provided under section 3318.086 of the 64899
Revised Code; 64900

(U) Provision stipulating that for continued release of 64901

project funds the school district board shall comply with section 64902
3313.41 of the Revised Code throughout the project and shall 64903
notify the department of education and the Ohio community school 64904
association when the board plans to dispose of facilities by sale 64905
under that section; 64906

(V) Provision that the commission shall not approve a 64907
contract for demolition of a facility until the school district 64908
board has complied with section 3313.41 of the Revised Code 64909
relative to that facility, unless demolition of that facility is 64910
to clear a site for construction of a replacement facility 64911
included in the district's project. 64912

Sec. 3318.111. For a contract for the construction of a 64913
project using assistance provided under this chapter, a school 64914
district board, with the approval of the Ohio school facilities 64915
commission, may enter into a contract with a construction manager 64916
at risk pursuant to section 9.334 of the Revised Code or a 64917
design-build firm pursuant to section 153.693 of the Revised Code, 64918
or a contract for the work described in division (B)(2) of section 64919
153.52 of the Revised Code, provided that any such contract 64920
entered into by the school district adheres to all applicable 64921
requirements imposed on such a contract pursuant to sections 9.33 64922
to 9.335 and Chapter 153. of the Revised Code. 64923

Sec. 3318.12. (A) The Ohio school facilities commission shall 64924
cause to be transferred to the school district's project 64925
construction fund the necessary amounts from amounts appropriated 64926
by the general assembly and set aside for such purpose, from time 64927
to time as may be necessary to pay obligations chargeable to such 64928
fund when due. All investment earnings of a school district's 64929
project construction fund shall be credited to the fund. 64930

(B)(1) The treasurer of the school district board shall 64931

disburse funds from the school district's project construction fund, including investment earnings credited to the fund, only upon the approval of the commission or the commission's designated representative. The commission or the commission's designated representative shall issue vouchers against such fund, in such amounts, and at such times as required by the contracts for construction of the project.

(2) Notwithstanding anything to the contrary in division (B)(1) of this section, the school district board may, by a duly adopted resolution, choose to use all or part of the investment earnings of the district's project construction fund that are attributable to the district's contribution to the fund to pay the cost of classroom facilities or portions or components of classroom facilities that are not included in the district's basic project cost but that are related to the district's project. If the district board adopts a resolution in favor of using those investment earnings as authorized under division (B)(2) of this section, the treasurer shall disburse the amount as designated and directed by the board. However, if the district board chooses to use any part of the investment earnings for classroom facilities or portions or components of classroom facilities that are not included in the basic project cost, as authorized under division (B)(2) of this section, and, subsequently, the cost of the project exceeds the amount in the project construction fund, the district board shall restore to the project construction fund the full amount of the investment earnings used under division (B)(2) of this section before any additional state moneys shall be released for the project.

(C) After ~~the~~ a certificate of completion has been issued for a project has been completed under section 3318.48 of the Revised Code:

(1) At the discretion of the school district board, any

investment earnings remaining in the project construction fund 64964
that are attributable to the school district's contribution to the 64965
fund shall be: 64966

(a) Retained in the project construction fund for future 64967
projects; 64968

(b) Transferred to the district's maintenance fund required 64969
by division (B) of section 3318.05 or section 3318.43 of the 64970
Revised Code, and the money so transferred shall be used solely 64971
for maintaining the classroom facilities included in the project; 64972

(c) Transferred to the district's permanent improvement fund. 64973

(2) Any investment earnings remaining in the project 64974
construction fund that are attributable to the state's 64975
contribution to the fund shall be transferred to the commission 64976
for expenditure pursuant to sections 3318.01 to 3318.20 or 64977
sections 3318.40 to 3318.45 of the Revised Code. 64978

(3) Any other surplus remaining in the school district's 64979
project construction fund ~~after the project has been completed~~ 64980
shall be transferred to the commission and the school district 64981
board in proportion to their respective contributions to the fund. 64982
The commission shall use the money transferred to it under this 64983
division for expenditure pursuant to sections 3318.01 to 3318.20 64984
or sections 3318.40 to 3318.45 of the Revised Code. 64985

(D) Pursuant to appropriations of the general assembly, any 64986
moneys transferred to the commission under division (C)(2) or (3) 64987
of this section from a project construction fund for a project 64988
under sections 3318.40 to 3318.45 of the Revised Code may be used 64989
for future expenditures for projects under sections 3318.40 to 64990
3318.45 of the Revised Code, notwithstanding the two per cent 64991
annual limit specified in division (B) of section 3318.40 of the 64992
Revised Code. 64993

Sec. 3318.31. (A) The Ohio school facilities commission may 64994
perform any act and ensure the performance of any function 64995
necessary or appropriate to carry out the purposes of, and 64996
exercise the powers granted under, Chapter 3318. of the Revised 64997
Code, including any of the following: 64998

(1) Adopt, amend, and rescind, pursuant to section 111.15 of 64999
the Revised Code, rules for the administration of programs 65000
authorized under Chapter 3318. of the Revised Code. 65001

(2) Contract with, retain the services of, or designate, and 65002
fix the compensation of, such agents, accountants, consultants, 65003
advisers, and other independent contractors as may be necessary or 65004
desirable to carry out the programs authorized under Chapter 3318. 65005
of the Revised Code, or authorize the executive director to 65006
perform such powers and duties. 65007

(3) Receive and accept any gifts, grants, donations, and 65008
pledges, and receipts therefrom, to be used for the programs 65009
authorized under Chapter 3318. of the Revised Code. 65010

(4) Make and enter into all contracts, commitments, and 65011
agreements, and execute all instruments, necessary or incidental 65012
to the performance of its duties and the execution of its rights 65013
and powers under Chapter 3318. of the Revised Code, or authorize 65014
the executive director to perform such powers and duties. 65015

(5) Request the director of administrative services to debar 65016
a contractor as provided in section 153.02 of the Revised Code. 65017

(B) The commission shall appoint and fix the compensation of 65018
an executive director who shall serve at the pleasure of the 65019
commission. The executive director shall supervise the operations 65020
of the commission and perform such other duties as delegated by 65021
the commission. The executive director also shall employ and fix 65022
the compensation of such employees as will facilitate the 65023

activities and purposes of the commission, who shall serve at the 65024
pleasure of the executive director. The employees of the 65025
commission shall be exempt from Chapter 4117. of the Revised Code 65026
and shall not be public employees as defined in section 4117.01 of 65027
the Revised Code. 65028

(C) The attorney general shall serve as the legal 65029
representative for the commission and may appoint other counsel as 65030
necessary for that purpose in accordance with section 109.07 of 65031
the Revised Code. 65032

Sec. 3318.36. (A)(1) As used in this section: 65033

(a) "Ohio school facilities commission," "classroom 65034
facilities," "school district," "school district board," "net 65035
bonded indebtedness," "required percentage of the basic project 65036
costs," "basic project cost," "valuation," and "percentile" have 65037
the same meanings as in section 3318.01 of the Revised Code. 65038

(b) "Required level of indebtedness" means five per cent of 65039
the school district's valuation for the year preceding the year in 65040
which the commission and school district enter into an agreement 65041
under division (B) of this section, plus [two one-hundredths of 65042
one per cent multiplied by (the percentile in which the district 65043
ranks minus one)]. 65044

(c) "Local resources" means any moneys generated in any 65045
manner permitted for a school district board to raise the school 65046
district portion of a project undertaken with assistance under 65047
sections 3318.01 to 3318.20 of the Revised Code. 65048

(d) "Tangible personal property phase-out impacted district" 65049
has the same meaning as in section 3318.11 of the Revised Code. 65050

(2) For purposes of determining the required level of 65051
indebtedness, the required percentage of the basic project costs 65052
under division (C)(1) of this section, and priority for assistance 65053

under sections 3318.01 to 3318.20 of the Revised Code, the 65054
percentile ranking of a school district with which the commission 65055
has entered into an agreement under this section between the first 65056
day of July and the thirty-first day of August in each fiscal year 65057
is the percentile ranking calculated for that district for the 65058
immediately preceding fiscal year, and the percentile ranking of a 65059
school district with which the commission has entered into such 65060
agreement between the first day of September and the thirtieth day 65061
of June in each fiscal year is the percentile ranking calculated 65062
for that district for the current fiscal year. However, in the 65063
case of a tangible personal property phase-out impacted district, 65064
the district's priority for assistance under sections 3318.01 to 65065
3318.20 of the Revised Code and its portion of the basic project 65066
cost under those sections shall be determined in the manner 65067
prescribed, respectively, in divisions (B)(3)(b) and (E)(1)(b) of 65068
this section. 65069

(B)(1) There is hereby established the school building 65070
assistance expedited local partnership program. Under the program, 65071
the Ohio school facilities commission may enter into an agreement 65072
with the school district board of any school district under which 65073
the school district board may proceed with the new construction or 65074
major repairs of a part of the school district's classroom 65075
facilities needs, as determined under sections 3318.01 to 3318.20 65076
of the Revised Code, through the expenditure of local resources 65077
prior to the school district's eligibility for state assistance 65078
under those sections and may apply that expenditure toward meeting 65079
the school district's portion of the basic project cost of the 65080
total of the school district's classroom facilities needs, as 65081
determined under sections 3318.01 to 3318.20 of the Revised Code 65082
and as recalculated under division (E) of this section, that are 65083
eligible for state assistance under sections 3318.01 to 3318.20 of 65084
the Revised Code when the school district becomes eligible for 65085
that assistance. Any school district that is reasonably expected 65086

to receive assistance under sections 3318.01 to 3318.20 of the Revised Code within two fiscal years from the date the school district adopts its resolution under division (B) of this section shall not be eligible to participate in the program established under this section.

(2) To participate in the program, a school district board shall first adopt a resolution certifying to the commission the board's intent to participate in the program.

The resolution shall specify the approximate date that the board intends to seek elector approval of any bond or tax measures or to apply other local resources to use to pay the cost of classroom facilities to be constructed under this section. The resolution may specify the application of local resources or elector-approved bond or tax measures after the resolution is adopted by the board, and in such case the board may proceed with a discrete portion of its project under this section as soon as the commission and the controlling board have approved the basic project cost of the district's classroom facilities needs as specified in division (D) of this section. The board shall submit its resolution to the commission not later than ten days after the date the resolution is adopted by the board.

The commission shall not consider any resolution that is submitted pursuant to division (B)(2) of this section, as amended by this amendment, sooner than September 14, 2000.

(3) For purposes of determining when a district that enters into an agreement under this section becomes eligible for assistance under sections 3318.01 to 3318.20 of the Revised Code, the commission shall use one of the following as applicable:

(a) Except for a tangible personal property phase-out impacted district, the district's percentile ranking determined at the time the district entered into the agreement under this

section, as prescribed by division (A)(2) of this section; 65118

(b) For a tangible personal property phase-out impacted 65119
district, the least of (i) the district's percentile ranking 65120
determined at the time the district entered into the agreement 65121
under this section, as prescribed by division (A)(2) of this 65122
section, (ii) the district's current percentile ranking under 65123
section 3318.011 of the Revised Code, or (iii) for a project 65124
approved for fiscal year 2012, the district's percentile ranking 65125
under the alternate equity list prescribed by Section 387.70 of 65126
H.B. 153 of the 129th general assembly. 65127

(4) Any project under this section shall comply with section 65128
3318.03 of the Revised Code and with any specifications for plans 65129
and materials for classroom facilities adopted by the commission 65130
under section 3318.04 of the Revised Code. 65131

(5) If a school district that enters into an agreement under 65132
this section has not begun a project applying local resources as 65133
provided for under that agreement at the time the district is 65134
notified by the commission that it is eligible to receive state 65135
assistance under sections 3318.01 to 3318.20 of the Revised Code, 65136
all assessment and agreement documents entered into under this 65137
section are void. 65138

(6) Only construction of or repairs to classroom facilities 65139
that have been approved by the commission and have been therefore 65140
included as part of a district's basic project cost qualify for 65141
application of local resources under this section. 65142

(C) Based on the results of on-site visits and assessment, 65143
the commission shall determine the basic project cost of the 65144
school district's classroom facilities needs. The commission shall 65145
determine the school district's portion of such basic project 65146
cost, which shall be the greater of: 65147

(1) The required percentage of the basic project costs, 65148

determined based on the school district's percentile ranking; 65149

(2) An amount necessary to raise the school district's net 65150
bonded indebtedness, as of the fiscal year the commission and the 65151
school district enter into the agreement under division (B) of 65152
this section, to within five thousand dollars of the required 65153
level of indebtedness. 65154

(D)(1) When the commission determines the basic project cost 65155
of the classroom facilities needs of a school district and the 65156
school district's portion of that basic project cost under 65157
division (C) of this section, the project shall be conditionally 65158
approved. Such conditional approval shall be submitted to the 65159
controlling board for approval thereof. The controlling board 65160
shall forthwith approve or reject the commission's determination, 65161
conditional approval, and the amount of the state's portion of the 65162
basic project cost; however, no state funds shall be encumbered 65163
under this section. Upon approval by the controlling board, the 65164
school district board may identify a discrete part of its 65165
classroom facilities needs, which shall include only new 65166
construction of or additions or major repairs to a particular 65167
building, to address with local resources. Upon identifying a part 65168
of the school district's basic project cost to address with local 65169
resources, the school district board may allocate any available 65170
school district moneys to pay the cost of that identified part, 65171
including the proceeds of an issuance of bonds if approved by the 65172
electors of the school district. 65173

All local resources utilized under this division shall first 65174
be deposited in the project construction account required under 65175
section 3318.08 of the Revised Code. 65176

(2) Unless the school district board exercises its option 65177
under division (D)(3) of this section, for a school district to 65178
qualify for participation in the program authorized under this 65179
section, one of the following conditions shall be satisfied: 65180

(a) The electors of the school district by a majority vote 65181
shall approve the levy of taxes outside the ten-mill limitation 65182
for a period of twenty-three years at the rate of not less than 65183
one-half mill for each dollar of valuation to be used to pay the 65184
cost of maintaining the classroom facilities included in the basic 65185
project cost as determined by the commission. The form of the 65186
ballot to be used to submit the question whether to approve the 65187
tax required under this division to the electors of the school 65188
district shall be the form for an additional levy of taxes 65189
prescribed in section 3318.361 of the Revised Code, which may be 65190
combined in a single ballot question with the questions prescribed 65191
under section 5705.218 of the Revised Code. 65192

(b) As authorized under division (C) of section 3318.05 of 65193
the Revised Code, the school district board shall earmark from the 65194
proceeds of a permanent improvement tax levied under section 65195
5705.21 of the Revised Code, an amount equivalent to the 65196
additional tax otherwise required under division (D)(2)(a) of this 65197
section for the maintenance of the classroom facilities included 65198
in the basic project cost as determined by the commission. 65199

(c) As authorized under section 3318.051 of the Revised Code, 65200
the school district board shall, if approved by the commission, 65201
annually transfer into the maintenance fund required under section 65202
3318.05 of the Revised Code the amount prescribed in section 65203
3318.051 of the Revised Code in lieu of the tax otherwise required 65204
under division (D)(2)(a) of this section for the maintenance of 65205
the classroom facilities included in the basic project cost as 65206
determined by the commission. 65207

(d) If the school district board has rescinded the agreement 65208
to make transfers under section 3318.051 of the Revised Code, as 65209
provided under division (F) of that section, the electors of the 65210
school district, in accordance with section 3318.063 of the 65211
Revised Code, first shall approve the levy of taxes outside the 65212

ten-mill limitation for the period specified in that section at a 65213
rate of not less than one-half mill for each dollar of valuation. 65214

(e) The school district board shall apply the proceeds of a 65215
tax to leverage bonds as authorized under section 3318.052 of the 65216
Revised Code or dedicate a local donated contribution in the 65217
manner described in division (B) of section 3318.084 of the 65218
Revised Code in an amount equivalent to the additional tax 65219
otherwise required under division (D)(2)(a) of this section for 65220
the maintenance of the classroom facilities included in the basic 65221
project cost as determined by the commission. 65222

(3) A school district board may opt to delay taking any of 65223
the actions described in division (D)(2) of this section until the 65224
school district becomes eligible for state assistance under 65225
sections 3318.01 to 3318.20 of the Revised Code. In order to 65226
exercise this option, the board shall certify to the commission a 65227
resolution indicating the board's intent to do so prior to 65228
entering into an agreement under division (B) of this section. 65229

(4) If pursuant to division (D)(3) of this section a district 65230
board opts to delay levying an additional tax until the district 65231
becomes eligible for state assistance, it shall submit the 65232
question of levying that tax to the district electors as follows: 65233

(a) In accordance with section 3318.06 of the Revised Code if 65234
it will also be necessary pursuant to division (E) of this section 65235
to submit a proposal for approval of a bond issue; 65236

(b) In accordance with section 3318.361 of the Revised Code 65237
if it is not necessary to also submit a proposal for approval of a 65238
bond issue pursuant to division (E) of this section. 65239

(5) No state assistance under sections 3318.01 to 3318.20 of 65240
the Revised Code shall be released until a school district board 65241
that adopts and certifies a resolution under division (D) of this 65242
section also demonstrates to the satisfaction of the commission 65243

compliance with the provisions of division (D)(2) of this section. 65244

Any amount required for maintenance under division (D)(2) of 65245
this section shall be deposited into a separate fund as specified 65246
in division (B) of section 3318.05 of the Revised Code. 65247

(E)(1) If the school district becomes eligible for state 65248
assistance under sections 3318.01 to 3318.20 of the Revised Code 65249
based on its percentile ranking under division (B)(3) of this 65250
section, the commission shall conduct a new assessment of the 65251
school district's classroom facilities needs and shall recalculate 65252
the basic project cost based on this new assessment. The basic 65253
project cost recalculated under this division shall include the 65254
amount of expenditures made by the school district board under 65255
division (D)(1) of this section. The commission shall then 65256
recalculate the school district's portion of the new basic project 65257
cost, which shall be one of the following as applicable: 65258

(a) Except for a tangible personal property phase-out 65259
impacted district, the percentage of the original basic project 65260
cost assigned to the school district as its portion under division 65261
(C) of this section; 65262

(b) For a tangible personal property phase-out impacted 65263
district, the least of (i) the percentage of the original basic 65264
project cost assigned to the school district as its portion under 65265
division (C) of this section, (ii) the percentage of the new basic 65266
project cost determined under section 3318.032 of the Revised Code 65267
using the district's current percentile ranking under section 65268
3318.011 of the Revised Code, or (iii) for a project approved for 65269
fiscal year 2012, the percentage of the new basic project cost 65270
determined under section 3318.032 of the Revised Code using the 65271
district's percentile ranking under the alternate equity list 65272
prescribed by Section 387.70 of H.B. 153 of the 129th general 65273
assembly. The 65274

The commission shall deduct the expenditure of school 65275
district moneys made under division (D)(1) of this section from 65276
the school district's portion of the basic project cost as 65277
recalculated under this division. If the amount of school district 65278
resources applied by the school district board to the school 65279
district's portion of the basic project cost under this section is 65280
less than the total amount of such portion as recalculated under 65281
this division, the school district board by a majority vote of all 65282
of its members shall, if it desires to seek state assistance under 65283
sections 3318.01 to 3318.20 of the Revised Code, adopt a 65284
resolution as specified in section 3318.06 of the Revised Code to 65285
submit to the electors of the school district the question of 65286
approval of a bond issue in order to pay any additional amount of 65287
school district portion required for state assistance. Any tax 65288
levy approved under division (D) of this section satisfies the 65289
requirements to levy the additional tax under section 3318.06 of 65290
the Revised Code. 65291

(2) If the amount of school district resources applied by the 65292
school district board to the school district's portion of the 65293
basic project cost under this section is more than the total 65294
amount of such portion as recalculated under ~~this~~ division (E)(1) 65295
of this section, within one year after the school district's 65296
portion is so recalculated ~~under division (E)(1) of this section~~ 65297
the commission may grant to the school district the difference 65298
between the two calculated portions, but at no time shall the 65299
commission expend any state funds on a project in an amount 65300
greater than the state's portion of the basic project cost as 65301
recalculated under ~~this~~ division (E)(1) of this section. 65302

Any reimbursement under this division shall be only for local 65303
resources the school district has applied toward construction cost 65304
expenditures for the classroom facilities approved by the 65305
commission, which shall not include any financing costs associated 65306

with that construction. 65307

The school district board shall use any moneys reimbursed to 65308
the district under this division to pay off any debt service the 65309
district owes for classroom facilities constructed under its 65310
project under this section before such moneys are applied to any 65311
other purpose. However, the district board first may deposit 65312
moneys reimbursed under this division into the district's general 65313
fund or a permanent improvement fund to replace local resources 65314
the district withdrew from those funds, as long as, and to the 65315
extent that, those local resources were used by the district for 65316
constructing classroom facilities included in the district's basic 65317
project cost. 65318

(3) A tangible personal property phase-out impacted district 65319
shall receive credit under division (E) of this section for the 65320
expenditure of local resources pursuant to any prior agreement 65321
authorized by this section, notwithstanding any recalculation of 65322
its average taxable value. 65323

Sec. 3318.37. (A)(1) As used in this section: 65324

(a) "Large land area school district" means a school district 65325
with a territory of greater than three hundred square miles in any 65326
percentile as determined under section 3318.011 of the Revised 65327
Code. 65328

(b) "Low wealth school district" means a school district in 65329
the first through seventy-fifth percentiles as determined under 65330
section 3318.011 of the Revised Code. 65331

(c) A "school district with an exceptional need for immediate 65332
classroom facilities assistance" means a low wealth or large land 65333
area school district with an exceptional need for new facilities 65334
in order to protect the health and safety of all or a portion of 65335
its students. 65336

~~(2) No school district reasonably expected to be eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code within three fiscal years after the year of the application for assistance under this section shall be eligible for assistance under this section, unless the district's entire classroom facilities plan consists of only a single building designed to house grades kindergarten through twelve and the district satisfies the conditions prescribed in divisions (A)(3)(a) and (b) of this section.~~

~~(3)~~ No school district that participates in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code shall receive assistance under the program established under this section unless the following conditions are satisfied:

(a) The district board adopted a resolution certifying its intent to participate in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code prior to September 14, 2000.

(b) The district was selected by the Ohio school facilities commission for participation in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code in the manner prescribed by the commission under that section as it existed prior to September 14, 2000.

(B)(1) There is hereby established the exceptional needs school facilities assistance program. Under the program, the Ohio school facilities commission may set aside from the moneys annually appropriated to it for classroom facilities assistance projects up to twenty-five per cent for assistance to school districts with exceptional needs for immediate classroom facilities assistance.

(2)(a) After consulting with education and construction

experts, the commission shall adopt guidelines for identifying 65368
school districts with an exceptional need for immediate classroom 65369
facilities assistance. 65370

(b) The guidelines shall include application forms and 65371
instructions for school districts to use in applying for 65372
assistance under this section. 65373

(3) The commission shall evaluate the classroom facilities, 65374
and the need for replacement classroom facilities from the 65375
applications received under this section. The commission, 65376
utilizing the guidelines adopted under division (B)(2)(a) of this 65377
section, shall prioritize the school districts to be assessed. 65378

Notwithstanding section 3318.02 of the Revised Code, the 65379
commission may conduct on-site evaluation of the school districts 65380
prioritized under this section and approve and award funds until 65381
such time as all funds set aside under division (B)(1) of this 65382
section have been encumbered. However, the commission need not 65383
conduct the evaluation of facilities if the commission determines 65384
that a district's assessment conducted under section 3318.36 of 65385
the Revised Code is sufficient for purposes of this section. 65386

(4) Notwithstanding division (A) of section 3318.05 of the 65387
Revised Code, the school district's portion of the basic project 65388
cost under this section shall be the "required percentage of the 65389
basic project costs," as defined in division (K) of section 65390
3318.01 of the Revised Code. 65391

(5) Except as otherwise specified in this section, any 65392
project undertaken with assistance under this section shall comply 65393
with all provisions of sections 3318.01 to 3318.20 of the Revised 65394
Code. A school district may receive assistance under sections 65395
3318.01 to 3318.20 of the Revised Code for the remainder of the 65396
district's classroom facilities needs as assessed under this 65397
section when the district is eligible for such assistance pursuant 65398

to section 3318.02 of the Revised Code, but any classroom facility 65399
constructed with assistance under this section shall not be 65400
included in a district's project at that time unless the 65401
commission determines the district has experienced the increased 65402
enrollment specified in division (B)(1) of section 3318.04 of the 65403
Revised Code. 65404

(C) No school district shall receive assistance under this 65405
section for a classroom facility that has been included in the 65406
discrete part of the district's classroom facilities needs 65407
identified and addressed in the district's project pursuant to an 65408
agreement entered into under section 3318.36 of the Revised Code, 65409
unless the district's entire classroom facilities plan consists of 65410
only a single building designed to house grades kindergarten 65411
through twelve. 65412

Sec. 3318.371. The Ohio school facilities commission may 65413
provide assistance under the exceptional needs school facilities 65414
program established by section 3318.37 of the Revised Code to any 65415
school district for the purpose of the relocation or replacement 65416
of classroom facilities required as a result of any contamination 65417
of air, soil, or water that impacts the occupants of the facility. 65418
Assistance under this section is not limited to school districts 65419
in the first through seventy-fifth percentiles as determined under 65420
section 3318.011 of the Revised Code. 65421

The commission shall make a determination in accordance with 65422
guidelines adopted by the commission regarding eligibility and 65423
funding for projects under this section. The commission may 65424
contract with an independent environmental consultant to conduct a 65425
study to assist the commission in making the determination. 65426

If the federal government or other public or private entity 65427
provides funds for restitution of costs incurred by the state or 65428
school district in the relocation or replacement of the classroom 65429

facilities, the school district shall use such funds in excess of 65430
the school district's share to refund the state for the state's 65431
contribution to the environmental contamination portion of the 65432
project. The school district may apply an amount of such 65433
restitution funds up to an amount equal to the school district's 65434
portion of the project, as defined by the commission, toward 65435
paying its portion of that project to reduce the amount of bonds 65436
the school district otherwise must issue to receive state 65437
assistance under sections 3318.01 to 3318.20 of the Revised Code. 65438

Sec. 3318.38. (A) As used in this section, "big-eight school 65439
district" has the same meaning as in section 3314.02 of the 65440
Revised Code. 65441

(B) There is hereby established the accelerated urban school 65442
building assistance program. Under the program, notwithstanding 65443
section 3318.02 of the Revised Code, any big-eight school district 65444
that has not been approved to receive assistance under sections 65445
3318.01 to 3318.20 of the Revised Code by July 1, 2002, may 65446
beginning on that date apply for approval of and be approved for 65447
such assistance. Except as otherwise provided in this section, any 65448
project approved and undertaken pursuant to this section shall 65449
comply with all provisions of sections 3318.01 to 3318.20 of the 65450
Revised Code. 65451

The Ohio school facilities commission shall provide 65452
assistance to any big-eight school district eligible for 65453
assistance under this section in the following manner: 65454

(1) Notwithstanding section 3318.02 of the Revised Code: 65455

(a) Not later than June 30, 2002, the commission shall 65456
conduct an on-site visit and shall assess the classroom facilities 65457
needs of each big-eight school district eligible for assistance 65458
under this section; 65459

(b) Beginning July 1, 2002, any big-eight school district 65460
eligible for assistance under this section may apply to the 65461
commission for conditional approval of its project as determined 65462
by the assessment conducted under division (B)(1)(a) of this 65463
section. The commission may conditionally approve that project and 65464
submit it to the controlling board for approval pursuant to 65465
section 3318.04 of the Revised Code. 65466

(2) If the controlling board approves the project of a 65467
big-eight school district eligible for assistance under this 65468
section, the commission and the school district shall enter into 65469
an agreement as prescribed in section 3318.08 of the Revised Code. 65470
Any agreement executed pursuant to this division shall include any 65471
applicable segmentation provisions as approved by the commission 65472
under division (B)(3) of this section. 65473

(3) Notwithstanding any provision to the contrary in sections 65474
3318.05, 3318.06, and 3318.08 of the Revised Code, a big-eight 65475
school district eligible for assistance under this section may 65476
with the approval of the commission opt to divide the project as 65477
approved under division (B)(1)(b) of this section into discrete 65478
segments to be completed sequentially. Any project divided into 65479
segments shall comply with all other provisions of sections 65480
3318.05, 3318.06, and 3318.08 of the Revised Code except as 65481
otherwise specified in this division. 65482

If a project is divided into segments under this division: 65483

(a) The school district need raise only the amount equal to 65484
its proportionate share, as determined under section 3318.032 of 65485
the Revised Code, of each segment at any one time and may seek 65486
voter approval of each segment separately; 65487

(b) The state's proportionate share, as determined under 65488
section 3318.032 of the Revised Code, of only the segment which 65489
has been approved by the school district electors or for which the 65490

district has applied a local donated contribution under section 65491
3318.084 of the Revised Code shall be encumbered in accordance 65492
with section 3318.11 of the Revised Code. Encumbrance of 65493
additional amounts to cover the state's proportionate share of 65494
later segments shall be approved separately as they are approved 65495
by the school district electors or as the district applies a local 65496
donated contribution to the segments under section 3318.084 of the 65497
Revised Code. 65498

(c) The school district's maintenance levy requirement, as 65499
defined in section 3318.18 of the Revised Code, shall run for 65500
twenty-three years from the date the first segment is undertaken. 65501

~~(4) For any project under this section~~ (C) In accordance with 65502
division (R) of section 3318.08 of the Revised Code, the state 65503
funds reserved and encumbered and the funds provided by the school 65504
district to pay the basic project cost of any segment of the 65505
project under this section, or of the entire project if it is not 65506
divided into segments, shall be spent on the construction and 65507
acquisition of the project simultaneously in proportion to the 65508
state's and the school district's respective shares of that basic 65509
project cost as determined under section 3318.032 of the Revised 65510
Code. 65511

Sec. 3318.41. (A)(1) The Ohio school facilities commission 65512
annually shall assess the classroom facilities needs of the number 65513
of joint vocational school districts that the commission 65514
reasonably expects to be able to provide assistance to in a fiscal 65515
year, based on the amount set aside for that fiscal year under 65516
division (B) of section 3318.40 of the Revised Code and the order 65517
of priority prescribed in division (B) of section 3318.42 of the 65518
Revised Code, except that in fiscal year 2004 the commission shall 65519
conduct at least the five assessments prescribed in division (E) 65520
of section 3318.40 of the Revised Code. 65521

Upon conducting an assessment of the classroom facilities 65522
needs of a school district, the commission shall make a 65523
determination of all of the following: 65524

(a) The number of classroom facilities to be included in a 65525
project and the basic project cost of acquiring the classroom 65526
facilities included in the project. The number of facilities and 65527
basic project cost shall be determined in accordance with the 65528
specifications adopted under section 3318.311 of the Revised Code 65529
except to the extent that compliance with such specifications is 65530
waived by the commission pursuant to the rule of the commission 65531
adopted under division (F) of section 3318.40 of the Revised Code. 65532

(b) The school district's portion of the basic project cost 65533
as determined under division (C) of section 3318.42 of the Revised 65534
Code; 65535

(c) The remaining portion of the basic project cost that 65536
shall be supplied by the state; 65537

(d) The amount of the state's portion of the basic project 65538
cost to be encumbered in accordance with section 3318.11 of the 65539
Revised Code in the current and subsequent fiscal years from funds 65540
set aside under division (B) of section 3318.40 of the Revised 65541
Code. 65542

(2) Divisions (A), (C), and (D) of section 3318.03 of the 65543
Revised Code apply to any project under sections 3318.40 to 65544
3318.45 of the Revised Code. 65545

(B)(1) If the commission makes a determination under division 65546
(A) of this section in favor of the acquisition of classroom 65547
facilities for a project under sections 3318.40 to 3318.45 of the 65548
Revised Code, such project shall be conditionally approved. Such 65549
conditional approval shall be submitted to the controlling board 65550
for approval. The controlling board shall immediately approve or 65551
reject the commission's determination, conditional approval, the 65552

amount of the state's portion of the basic project cost, and the 65553
amount of the state's portion of the basic project cost to be 65554
encumbered in the current fiscal year. In the event of approval by 65555
the controlling board, the commission shall certify the 65556
conditional approval to the joint vocational school district board 65557
of education and shall encumber the approved funds for the current 65558
fiscal year. 65559

(2) No school district that receives assistance under 65560
sections 3318.40 to 3318.45 of the Revised Code shall have another 65561
such project conditionally approved until the expiration of twenty 65562
years after the school district's prior project was conditionally 65563
approved, unless the school district board demonstrates to the 65564
satisfaction of the commission that the school district has 65565
experienced since conditional approval of its prior project an 65566
exceptional increase in enrollment or program requirements 65567
significantly above the school district's design capacity under 65568
that prior project as determined by rule of the commission. Any 65569
rule adopted by the commission to implement this division shall be 65570
tailored to address the classroom facilities needs of joint 65571
vocational school districts. 65572

(C) In addition to generating the amount of the school 65573
district's portion of the basic project cost as determined under 65574
division (C) of section 3318.42 of the Revised Code, in order for 65575
a school district to receive assistance under sections 3318.40 to 65576
3318.45 of the Revised Code, the school district board shall set 65577
aside school district moneys for the maintenance of the classroom 65578
facilities included in the school district's project in the amount 65579
and manner prescribed in section 3318.43 of the Revised Code. 65580

(D)(1) The conditional approval for a project certified under 65581
division (B)(1) of this section shall lapse and the amount 65582
reserved and encumbered for such project shall be released unless 65583
both of the following conditions are satisfied: 65584

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

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

(2) If the school district board or electors fail to satisfy the conditions prescribed in division (D)(1) of this section and the amount reserved and encumbered for the school district's project is released, the school district shall be given first priority over other joint vocational school districts for project funding under sections 3318.40 to 3318.45 of the Revised Code as such funds become available, subject to section 3318.054 of the Revised Code.

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

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

(G) Advertisement for bids and the award of contracts for construction of any project under sections 3318.40 to 3318.45 of the Revised Code shall be conducted in accordance with section 3318.10 of the Revised Code.

(H) ~~The~~ In accordance with division (R) of section 3318.08 of the Revised Code, the state funds reserved and encumbered and the funds provided by the school district to pay the basic project cost of a project under sections 3318.40 to 3318.45 of the Revised Code shall be spent simultaneously in proportion to the state's and the school district's respective portions of that basic project cost.

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

Sec. 3318.44. (A) A joint vocational school district board of education may generate the school district's portion of the basic project cost of its project under sections 3318.40 to 3318.45 of the Revised Code using any combination of the following means if lawfully employed for the acquisition of classroom facilities:

(1) The issuance of securities in accordance with Chapter 133. and section 3311.20 of the Revised Code;

(2) Local donated contributions as authorized under section 3318.084 of the Revised Code;

(3) A levy for permanent improvements under section 3311.21 or 5705.21 of the Revised Code;

(4) Bonds issued pursuant to division (B) of this section.

(B) By resolution adopted by a majority of all its members, a school district board, in order to pay all or part of the school district's portion of its basic project cost, or portions or components of classroom facilities that are not included in the

school district's basic project cost but that are related to the 65646
school district's project, may apply the proceeds of a tax levied 65647
under either section 3311.21 of the Revised Code for ten years or 65648
section 5705.21 of the Revised Code for ~~general permanent~~ 65649
~~improvements~~ a continuing period of time, if the proceeds of that 65650
levy lawfully may be used for general construction, renovation, 65651
repair, or maintenance of classroom facilities to pay debt charges 65652
on and financing costs related to bonds issued to pay all or part 65653
of the school district portion of the basic project cost of the 65654
school district's project under sections 3318.40 to 3318.45 of the 65655
Revised Code, or portions or components of classroom facilities 65656
that are not included in the school district's basic project cost 65657
but that are related to the school district's project, or to 65658
generate an amount equivalent to all or part of the amount 65659
required under section 3318.43 of the Revised Code to be used for 65660
maintenance of classroom facilities acquired under the project. 65661
Bonds issued under this division shall be Chapter 133. securities, 65662
and may be issued as general obligation securities, but the 65663
issuance of the bonds shall not be subject to a vote of the 65664
electors of the school district as long as the tax proceeds 65665
earmarked for payment of the debt charges on the bonds may 65666
lawfully be used for that purpose. Such bonds shall not be 65667
included in the calculation of net indebtedness under section 65668
133.06 of the Revised Code if the resolution authorizing their 65669
issuance includes covenants to appropriate annually, from lawfully 65670
available proceeds of a property tax levied under either section 65671
3311.21 or 5705.21 of the Revised Code, and to continue to levy 65672
that tax in amounts necessary to pay the debt charges on and 65673
financing costs related to the bonds as they become due. No 65674
property tax levied under section 5705.21 of the Revised Code that 65675
is pledged, or that the school district has covenanted to levy, 65676
collect, and appropriate annually to pay the debt charges on and 65677
financing costs related to the bonds under this section may be 65678

repealed while those bonds are outstanding. If such a tax is 65679
reduced by electors of the district or by the board of education 65680
while the bonds are outstanding, the board of education shall 65681
continue to levy and collect the tax under the authority of the 65682
original election authorizing the tax at a rate in each year that 65683
the board reasonably estimates will produce an amount in that year 65684
equal to the debt charges on the bonds in that year. 65685

No state moneys shall be released for a project to which this 65686
division applies until the proceeds of any bonds issued under this 65687
division that are dedicated for payment of the school district's 65688
portion of the basic project cost are first deposited into the 65689
school district's project construction fund. 65690

(C) A school district board of education may adopt a 65691
resolution proposing that any of the following questions be 65692
combined with a question specified in section 3318.45 of the 65693
Revised Code: 65694

(1) A bond issue question under section 133.18 of the Revised 65695
Code; 65696

(2) A tax levy question under section 3311.21 of the Revised 65697
Code; 65698

(3) A tax levy question under either section 3311.21 or 65699
5705.21 of the Revised Code. 65700

Any question described in divisions (C)(1) to (3) of this 65701
section that is combined with a question proposed under section 65702
3318.45 of the Revised Code shall be for the purpose of either 65703
paying for any permanent improvement, as defined in section 133.01 65704
of the Revised Code, or generating operating revenue specifically 65705
for the facilities acquired under the school district's project 65706
under Chapter 3318. of the Revised Code or for both to the extent 65707
such purposes are permitted by the sections of law under which 65708
each is proposed. 65709

(D) The board of education of a joint vocational school 65710
district that receives assistance under this section may enter 65711
into an agreement for joint issuance of bonds as provided for in 65712
section 3318.085 of the Revised Code. 65713

Sec. 3318.48. (A) When all of the following have occurred, a 65714
project undertaken by a school district pursuant to this chapter 65715
shall be considered complete and the Ohio school facilities 65716
commission shall issue a certificate of completion to the district 65717
board of education: 65718

(1) All facilities to be constructed under the project, as 65719
specified in the project agreement entered into under section 65720
3318.08 of the Revised Code, have been completed and the board has 65721
received a permanent certificate of occupancy for each of those 65722
facilities. 65723

(2) The commission has issued certificates of contract 65724
completion on all prime construction contracts entered into by the 65725
board under section 3318.10 of the Revised Code. 65726

(3) The commission has completed a final accounting of the 65727
district's project construction fund and has determined that all 65728
payments from the fund were made in compliance with all policies 65729
of the commission. 65730

(4) Any litigation concerning the project has been finally 65731
resolved with no chance of appeal. 65732

(5) All construction management services typically provided 65733
by the commission to school districts have been delivered and the 65734
commission has canceled any remaining encumbrance of funds for 65735
those services. 65736

(B) The commission may issue a certificate of completion to a 65737
district board prior to all of the conditions described in 65738
division (A) of this section being satisfied, if the commission 65739

determines that the circumstances preventing the conditions from 65740
being satisfied are so minor in nature that the project should be 65741
considered complete. When issuing a certificate of completion 65742
under this division, the commission may specify any of the 65743
following: 65744

(1) Any construction or work that has yet to be completed and 65745
the manner in which the board shall oversee its completion, which 65746
may include procedures for reporting progress to the commission 65747
and for accounting of expenditures; 65748

(2) Terms and conditions for the resolution of any pending 65749
litigation; 65750

(3) Any remaining responsibilities of the construction 65751
manager regarding the project. 65752

(C) The commission may issue a certificate of completion to a 65753
district board that does not voluntarily participate in the 65754
process of closing out the district's project, if the construction 65755
manager for the project verifies that all facilities to be 65756
constructed under the project, as specified in the project 65757
agreement entered into under section 3318.08 of the Revised Code, 65758
have been completed and the commission determines that those 65759
facilities have been occupied for at least one year. In that case, 65760
all funds due to the commission under division (C) of section 65761
3318.12 of the Revised Code shall be returned to the commission 65762
not later than thirty days after receipt of the certificate of 65763
completion. If the funds due to the commission have not been 65764
returned within sixty days after receipt of the certificate of 65765
completion, the auditor of state shall issue a finding for 65766
recovery against the school district and shall request legal 65767
action under section 117.42 of the Revised Code. 65768

(D) Upon issuance of a certificate of completion under this 65769
section, the commission's ownership of and interest in the 65770

project, as specified in division (F) of section 3318.08 of the 65771
Revised Code, shall cease. This cessation shall not alter or 65772
otherwise affect the state's or commission's interest in the 65773
project or any limitations on the use of the project as specified 65774
in the project agreement pursuant to divisions (G), (M), and (N) 65775
of that section or as specified in section 3318.16 of the Revised 65776
Code. 65777

Sec. 3318.49. (A) The corrective action program is hereby 65778
established to provide funding for the correction of work, in 65779
connection with a project funded under sections 3318.01 to 3318.20 65780
or sections 3318.40 to 3318.45 of the Revised Code, that is found 65781
after occupancy of the facility to be defective or to have been 65782
omitted. 65783

(B) The Ohio school facilities commission may provide funding 65784
under this section only if the school district notifies the 65785
executive director of the commission of the defective or omitted 65786
work within five years after occupancy of the facility for which 65787
the district seeks the funding. 65788

(C) The commission shall establish procedures and deadlines 65789
for school districts to follow in applying for assistance under 65790
this section. The procedures shall include definitions of 65791
"defective" and "omitted," and shall require that remediation 65792
efforts focus first on engaging the respective contractors that 65793
designed and constructed the areas that have design or 65794
construction-related issues. The commission shall consider 65795
applications on a case-by-case basis, taking into account the 65796
amount of money appropriated and available for purposes of this 65797
section. 65798

(D) The commission may provide funding assistance necessary 65799
to take corrective measures after evaluating the defective or 65800
omitted work. 65801

(1) If the work to be corrected or remediated is part of a project not yet completed, the commission may amend the project agreement to increase the project budget and use corrective action funding to provide the state portion of the amendment. If the work to be corrected or remediated is part of a completed project and funds were retained or transferred pursuant to division (C) of section 3318.12 of the Revised Code, the commission may enter into a new agreement to address the corrective action. 65802
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(2) Whether or not the project is completed, the district shall contribute a portion of the cost of the corrective action, to be determined in accordance with section 3318.032 of the Revised Code or, if the district is a joint vocational school district, section 3318.42 of the Revised Code. A district that is unable to provide its portion so that remediation can proceed may apply to the commission for additional assistance under section 3318.042 of the Revised Code. 65810
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(E) The commission shall assess responsibility for the defective or omitted work and seek cost recovery from responsible parties, if applicable. Any recovery of the expense of remediation shall be applied first to the district portion of the cost of the corrective action. Any remaining funds shall be applied to the state portion and deposited into the school building program assistance fund established under section 3318.25 of the Revised Code. 65818
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Sec. 3318.60. (A) As used in this section: 65826

(1) "Acquisition of classroom facilities" means constructing, reconstructing, repairing, or making additions to classroom facilities. 65827
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(2) "Ohio school facilities commission" and "classroom facilities" have the same meanings as in section 3318.01 of the Revised Code. 65830
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(B) There is hereby established the college-preparatory boarding school facilities program. Under the program, the Ohio school facilities commission shall provide assistance to the boards of trustees of college-preparatory boarding schools established under Chapter 3328. of the Revised Code for the acquisition of classroom facilities.

(C) To be eligible for assistance under this program, a board of trustees shall secure at least twenty million dollars of private money to satisfy its share of facilities acquisition. A board of trustees that receives assistance under the program shall fund the acquisition of residential facilities and any other facilities other than classroom facilities through private means.

(D) The lease payments made by the boards of trustees of college-preparatory boarding schools receiving assistance under the program shall be deposited into the state treasury and credited to the common schools capital facilities bond service fund created in section 151.03 of the Revised Code.

(E) The acquisition of classroom facilities with assistance provided under the program shall not be subject to sections 3318.01 to 3318.20 of the Revised Code.

(F) Within the ninety-day period immediately following the effective date of this section, the commission shall adopt rules necessary for the implementation and administration of the program.

Sec. 3319.081. Except as otherwise provided in division (G) of this section, in all school districts wherein the provisions of Chapter 124. of the Revised Code do not apply, the following employment contract system shall control for employees whose contracts of employment are not otherwise provided by law:

(A) Newly hired regular nonteaching school employees,

including regular hourly rate and per diem employees, shall enter 65863
into written contracts for their employment which shall be for a 65864
period of not more than one year. If such employees are rehired, 65865
their subsequent contract shall be for a period of two years. 65866

(B) After the termination of the two-year contract provided 65867
in division (A) of this section, if the contract of a nonteaching 65868
employee is renewed, the employee shall be continued in 65869
employment, and the salary provided in the contract may be 65870
increased but not reduced unless such reduction is a part of a 65871
uniform plan affecting the nonteaching employees of the entire 65872
district. 65873

(C) The contracts as provided for in this section may be 65874
terminated by a majority vote of the board of education. Except as 65875
provided in ~~section~~ sections 3319.0810 and 3319.172 of the Revised 65876
Code, the contracts may be terminated only for violation of 65877
written rules and regulations as set forth by the board of 65878
education or for incompetency, inefficiency, dishonesty, 65879
drunkenness, immoral conduct, insubordination, discourteous 65880
treatment of the public, neglect of duty, or any other acts of 65881
misfeasance, malfeasance, or nonfeasance. In addition to the right 65882
of the board of education to terminate the contract of an 65883
employee, the board may suspend an employee for a definite period 65884
of time or demote the employee for the reasons set forth in this 65885
division. The action of the board of education terminating the 65886
contract of an employee or suspending or demoting the employee 65887
shall be served upon the employee by certified mail. Within ten 65888
days following the receipt of such notice by the employee, the 65889
employee may file an appeal, in writing, with the court of common 65890
pleas of the county in which such school board is situated. After 65891
hearing the appeal the common pleas court may affirm, disaffirm, 65892
or modify the action of the school board. 65893

A violation of division (A)(7) of section 2907.03 of the 65894

Revised Code is grounds for termination of employment of a nonteaching employee under this division. 65895
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(D) All employees who have been employed by a school district where the provisions of Chapter 124. of the Revised Code do not apply, for a period of at least three years on November 24, 1967, shall hold continuing contracts of employment pursuant to this section. 65897
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(E) Any nonteaching school employee may terminate the nonteaching school employee's contract of employment thirty days subsequent to the filing of a written notice of such termination with the treasurer of the board. 65902
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(F) A person hired exclusively for the purpose of replacing a nonteaching school employee while such employee is on leave of absence granted under section 3319.13 of the Revised Code is not a regular nonteaching school employee under this section. 65906
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(G) All nonteaching employees employed pursuant to this section and Chapter 124. of the Revised Code shall be paid for all time lost when the schools in which they are employed are closed owing to an epidemic or other public calamity. Nothing in this division shall be construed as requiring payment in excess of an employee's regular wage rate or salary for any time worked while the school in which the employee is employed is officially closed for the reasons set forth in this division. 65910
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Sec. 3319.0810. (A) The board of education of any school district wherein the provisions of Chapter 124. of the Revised Code do not apply may terminate any of its transportation staff positions for reasons of economy and efficiency if the board instead of employing its own staff to transport some or all of the students enrolled in the district schools enters into a contract with an independent agent for the provision of transportation services for such students. Such a contract may be entered into 65918
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only if all of the following conditions are satisfied: 65926

(1) Any collective bargaining agreement between the employee organization representing the employees whose positions are terminated under this section and the board has expired or will expire within sixty days and has not been renewed in conformance with provisions of that agreement and with Chapter 4117. of the Revised Code, or the agreement contains provisions permitting the termination of positions for reasons of economy and efficiency while the agreement is in force and the board is in conformance with those provisions. 65927
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(2) The board permits any employee whose position is terminated under this section to fill any vacancy within the district's organization for which the employee is qualified. The board shall select from among similarly qualified employees to fill such vacancies pursuant to procedures established under any collective bargaining agreement between the employee organization representing the terminated employees and the board that is in force at the time of the termination, or in absence of such provisions on the basis of seniority of employment by the board with the employee with the greatest seniority having highest priority. 65936
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(3) Unless a collective bargaining agreement between the employee organization representing the terminated employees and the board that is in force at the time of the termination provides otherwise, the board permits any employee whose position is terminated under this section to fill the employee's former position in the event that the board reinstates that position within one year after the date the position is terminated under this section. 65947
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(4) The board permits any employee whose position is terminated under this section to appeal in accordance with section 119.12 of the Revised Code the board's decision to terminate the 65955
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employee's position, not to hire that employee for another 65958
position pursuant to division (A)(2) of this section, or not to 65959
rehire that employee for the position if it is reinstated within 65960
one year after the position is terminated pursuant to division 65961
(A)(3) of this section. 65962

(5) The contract entered into by the board and an independent 65963
agent for the provision of transportation services contains a 65964
stipulation requiring the agent to consider hiring any employees 65965
of the school district whose positions are terminated under this 65966
section for similar positions within the agent's organization. 65967

(6) The contract entered into by the board and an independent 65968
agent for the provision of transportation services contains a 65969
stipulation requiring the agent to recognize for purposes of 65970
employee representation in collective bargaining any employee 65971
organization that represented the employees whose positions are 65972
terminated under this section in collective bargaining with the 65973
board at the time of the termination provided: 65974

(a) A majority of all employees in the bargaining unit agree 65975
to such representation; 65976

(b) Such representation is not prohibited by federal law, 65977
including any ruling of the national labor relations board; 65978

(c) The employee organization is not prohibited from 65979
representing nonpublic employees by other provisions of law or its 65980
own governing instruments. 65981

However, any employee whose position is terminated under this 65982
section shall not be compelled to be included in such bargaining 65983
unit if there is another bargaining unit within the agent's 65984
organization that is applicable to the employee. 65985

(B) If after terminating any positions of employment under 65986
this section the board fails to comply with any condition 65987
prescribed in division (A) of this section or fails to enforce on 65988

the agent its contractual obligations prescribed in divisions 65989
(A)(5) and (6) of this section, the terminations shall be void and 65990
the board shall reinstate the positions and fill them with the 65991
employees who filled those positions just prior to the 65992
terminations. Such employees shall be compensated at a rate equal 65993
to their rate of compensation in those positions just prior to the 65994
terminations plus any increases paid since the terminations to 65995
other nonteaching employees. The employees shall also be entitled 65996
to back pay at such rate for the period from the date of the 65997
terminations to the date of the reinstatements minus any pay 65998
received by the employees during any time the board was in 65999
compliance with such conditions or during any time the board 66000
enforced those obligations. 66001

Any employee aggrieved by the failure of the board to comply 66002
with any condition prescribed in division (A) of this section or 66003
to enforce on the agent its contractual obligations prescribed in 66004
divisions (A)(5) and (6) of this section shall have the right to 66005
sue the board for reinstatement of the employee's former position 66006
as provided for in this division in the court of common pleas for 66007
the county in which the school district is located or, if the 66008
school district is located in more than one county, in the court 66009
of common pleas for the county in which the majority of the 66010
territory of the school district is located. 66011

Sec. 3319.17. (A) As used in this section, "interdistrict 66012
contract" means any contract or agreement entered into by an 66013
educational service center governing board and another board or 66014
other public entity pursuant to section 3313.17, 3313.841, 66015
3313.842, 3313.843, 3313.844, 3313.845, 3313.91, or 3323.08 of the 66016
Revised Code, including any such contract or agreement for the 66017
provision of services funded under division ~~(I)~~(E) of section 66018
3317.024 of the Revised Code or provided in any unit approved 66019
under section 3317.05 of the Revised Code. 66020

(B) When, for any of the following reasons that apply to any city, exempted village, local, or joint vocational school district or any educational service center, the board decides that it will be necessary to reduce the number of teachers it employs, it may make a reasonable reduction:

(1) In the case of any district or service center, return to duty of regular teachers after leaves of absence including ~~leaves provided pursuant to division (B) of section 3314.10 of the Revised Code,~~ suspension of schools, territorial changes affecting the district or center, or financial reasons;

(2) In the case of any city, exempted village, local, or joint vocational school district, decreased enrollment of pupils in the district;

(3) In the case of any governing board of a service center providing any particular service directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total number of pupils the governing board is required to provide with the service under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts;

(4) In the case of any governing board providing any particular service that it does not provide directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total level of the service the governing board is required to provide under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts.

(C) In making any such reduction, ~~any city, exempted village, local, or joint vocational school~~ the district board or service center governing board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of

schools who shall, within each teaching field affected, give 66052
preference first to teachers on continuing contracts and then to 66053
teachers who have greater seniority. In making any such reduction, 66054
any governing board of a service center shall proceed to suspend 66055
contracts in accordance with the recommendation of the 66056
superintendent who shall, within each teaching field or service 66057
area affected, give preference first to teachers on continuing 66058
contracts and then to teachers who have greater seniority. 66059

On a case-by-case basis, in lieu of suspending a contract in 66060
whole, a board may suspend a contract in part, so that an 66061
individual is required to work a percentage of the time the 66062
employee otherwise is required to work under the contract and 66063
receives a commensurate percentage of the full compensation the 66064
employee otherwise would receive under the contract. 66065

The teachers whose continuing contracts are suspended by any 66066
board pursuant to this section shall have the right of restoration 66067
to continuing service status by that board in the order of 66068
seniority of service in the district or service center if and when 66069
teaching positions become vacant or are created for which any of 66070
such teachers are or become qualified. No teacher whose continuing 66071
contract has been suspended pursuant to this section shall lose 66072
that right of restoration to continuing service status by reason 66073
of having declined recall to a position that is less than 66074
full-time or, if the teacher was not employed full-time just prior 66075
to suspension of the teacher's continuing contract, to a position 66076
requiring a lesser percentage of full-time employment than the 66077
position the teacher last held while employed in the district or 66078
service center. 66079

(D) Notwithstanding any provision to the contrary in Chapter 66080
4117. of the Revised Code, the requirements of this section 66081
prevail over any conflicting provisions of agreements between 66082
employee organizations and public employers entered into after 66083

September 29, 2005.

66084

Sec. 3319.19. (A) Except as provided in division (D) of this 66085
section or division (A)(2) of section 3313.37 of the Revised Code, 66086
upon request, the board of county commissioners shall provide and 66087
equip offices in the county for the use of the superintendent of 66088
an educational service center, and shall provide heat, light, 66089
water, and janitorial services for such offices. Such offices 66090
shall be the permanent headquarters of the superintendent and 66091
shall be used by the governing board of the service center when it 66092
is in session. Except as provided in division (B) of this section, 66093
such offices shall be located in the county seat or, upon the 66094
approval of the governing board, may be located outside of the 66095
county seat. 66096

(B) In the case of a service center formed under section 66097
3311.053 ~~or 3311.059~~ of the Revised Code, the governing board 66098
shall designate the site of its offices. Except as provided in 66099
division (D) of this section or division (A)(2) of section 3313.37 66100
of the Revised Code, the board of county commissioners of the 66101
county in which the designated site is located shall provide and 66102
equip the offices as under division (A) of this section, but the 66103
costs of such offices and equipment shall be apportioned among the 66104
boards of county commissioners of all counties having any 66105
territory in the area under the control of the governing board, 66106
according to the proportion of local school district pupils under 66107
the supervision of such board residing in the respective counties. 66108
Where there is a dispute as to the amount any board of county 66109
commissioners is required to pay, the probate judge of the county 66110
in which the greatest number of pupils under the supervision of 66111
the governing board reside shall apportion such costs among the 66112
boards of county commissioners and notify each such board of its 66113
share of the costs. 66114

(C) As used in division (C) of this section, in the case of a building, facility, or office space that a board of county commissioners leases or rents, "actual cost per square foot" means all cost on a per square foot basis incurred by the board under the lease or rental agreement. In the case of a building, facility, or office space that the board owns in fee simple, "actual cost per square foot" means the fair rental value on a per square foot basis of the building, facility, or office space either as compared to a similarly situated building, facility, or office space in the general vicinity or as calculated under a formula that accounts for depreciation, amortization of improvements, and other reasonable factors, including, but not limited to, parking space and other amenities.

Not later than the thirty-first day of March of 2002, 2003, 2004, and 2005 a board of county commissioners required to provide or equip offices pursuant to division (A) or (B) of this section shall make a written estimate of the total cost it will incur for the ensuing fiscal year to provide and equip the offices and to provide heat, light, water, and janitorial services for such offices. The total estimate of cost shall include:

(1) The total square feet of space to be utilized by the educational service center;

(2) The total square feet of any common areas that should be reasonably allocated to the center and the methodology for making this allocation;

(3) The actual cost per square foot for both the space utilized by and the common area allocated to the center;

(4) An explanation of the methodology used to determine the actual cost per square foot;

(5) The estimated cost of providing heat, light, and water, including an explanation of how these costs were determined;

(6) The estimated cost of providing janitorial services 66146
including an explanation of the methodology used to determine this 66147
cost; 66148

(7) Any other estimated costs that the board anticipates it 66149
will ~~occur~~ incur and a detailed explanation of the costs and the 66150
rationale used to determine such costs. 66151

A copy of the total estimate of costs under this division 66152
shall be sent to the superintendent of the educational service 66153
center not later than the fifth day of April. The superintendent 66154
shall review the total estimate and shall notify the board of 66155
county commissioners not later than twenty days after receipt of 66156
the estimate of either agreement with the estimate or any specific 66157
objections to the estimates and the reasons for the objections. If 66158
the superintendent agrees with the estimate, it shall become the 66159
final total estimate of cost. Failure of the superintendent to 66160
make objections to the estimate by the twentieth day after receipt 66161
of it shall be deemed to mean that the superintendent is in 66162
agreement with the estimate. 66163

If the superintendent provides specific objections to the 66164
board of county commissioners, the board shall review the 66165
objections and may modify the original estimate and shall send a 66166
revised total estimate to the superintendent within ten days after 66167
the receipt of the superintendent's objections. The superintendent 66168
shall respond to the revised estimate within ten days after its 66169
receipt. If the superintendent agrees with it, it shall become the 66170
final total estimated cost. If the superintendent fails to respond 66171
within the required time, the superintendent shall be deemed to 66172
have agreed with the revised estimate. If the superintendent 66173
disagrees with the revised estimate, the superintendent shall send 66174
specific objections to the county commissioners. 66175

If a superintendent has sent specific objections to the 66176
revised estimate within the required time, the probate judge of 66177

the county which has the greatest number of resident local school 66178
district pupils under the supervision of the educational service 66179
center shall determine the final estimated cost and certify this 66180
amount to the superintendent and the board of county commissioners 66181
prior to the first day of July. 66182

(D)(1) A board of county commissioners shall be responsible 66183
for the following percentages of the final total estimated cost 66184
established by division (C) of this section: 66185

(a) Eighty per cent for fiscal year 2003; 66186

(b) Sixty per cent for fiscal year 2004; 66187

(c) Forty per cent for fiscal year 2005; 66188

(d) Twenty per cent for fiscal year 2006. 66189

In fiscal years 2003, 2004, 2005, and 2006 the educational 66190
service center shall be responsible for the remainder of any costs 66191
in excess of the amounts specified in division (D)(1)(a), (b), (c), 66192
or (d) of this section, as applicable, associated with the 66193
provision and equipment of offices for the educational service 66194
center and for provision of heat, light, water, and janitorial 66195
services for such offices, including any unanticipated or 66196
unexpected increases in the costs beyond the final estimated cost 66197
amount. 66198

Beginning in fiscal year 2007, no board of county 66199
commissioners shall have any obligation to provide and equip 66200
offices for an educational service center or to provide heat, 66201
light, water, or janitorial services for such offices. 66202

(2) Nothing in this section shall prohibit the board of 66203
county commissioners and the governing board of an educational 66204
service center from entering into a contract for providing and 66205
equipping offices for the use of an educational service center and 66206
for providing heat, light, water, and janitorial services for such 66207

offices. The term of any such contract shall not exceed a period 66208
of four years and may be renewed for additional periods not to 66209
exceed four years. Any such contract shall supersede the 66210
provisions of division (D)(1) of this section and no educational 66211
service center may be charged, at any time, any additional amount 66212
for the county's provision of an office and equipment, heat, 66213
light, water, and janitorial services beyond the amount specified 66214
in such contract. 66215

(3) No contract entered into under division (D)(2) of this 66216
section in any year prior to fiscal year 2007 between an 66217
educational service center formed under section 3311.053 ~~or~~ 66218
~~3311.059~~ of the Revised Code and the board of county commissioners 66219
required to provide and equip its office pursuant to division (B) 66220
of this section shall take effect unless the boards of county 66221
commissioners of all other counties required to participate in the 66222
funding for such offices pursuant to division (B) of this section 66223
adopt resolutions approving the contract. 66224

Sec. 3319.227. (A) Notwithstanding any other provision of the 66225
Revised Code or any rule adopted by the state board of education 66226
to the contrary, the state board shall issue a resident educator 66227
license under section 3319.22 of the Revised Code to each person 66228
who is assigned to teach in this state as a participant in the 66229
teach for America program and who meets the following conditions: 66230
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(1) Holds a bachelor's degree from an accredited institution 66232
of higher education; 66233

(2) Maintained a cumulative undergraduate grade point average 66234
of at least 2.5 out of 4.0, or its equivalent; 66235

(3) Has passed an examination prescribed by the state board 66236
in the subject area to be taught; 66237

(4) Has successfully completed the summer training institute 66238
operated by teach for America. 66239

(B) The state board shall issue a resident educator license 66240
under this section for teaching in any grade level or subject area 66241
for which a person may obtain a resident educator license under 66242
section 3319.22 of the Revised Code. The state board shall not 66243
adopt rules establishing any additional qualifications for the 66244
license beyond those specified in this section. 66245

(C) Notwithstanding any other provision of the Revised Code 66246
or any rule adopted by the state board to the contrary, the state 66247
board shall issue a resident educator license under section 66248
3319.22 of the Revised Code to any applicant who has completed at 66249
least two years of teaching in another state as a participant in 66250
the teach for America program and meets all of the conditions of 66251
divisions (A)(1) to (4) of this section. The state board shall 66252
credit an applicant under this division as having completed two 66253
years of the teacher residency program under section 3319.223 of 66254
the Revised Code. 66255

(D) In order to place teachers in this state, the ~~Teach~~ teach 66256
for America program shall enter into an agreement with one or more 66257
accredited four-year public or private institutions of higher 66258
education in the state to provide optional training of ~~Teach~~ teach 66259
for America participants for the purpose of enabling those 66260
participants to complete an optional master's degree or an 66261
equivalent amount of coursework. Nothing in this division shall 66262
require any ~~Teach~~ teach for America participant to complete a 66263
master's degree as a condition of holding a license issued under 66264
this section. 66265

Sec. 3319.228. (A) This section applies only to a person who 66266
meets the following conditions: 66267

(1) Holds a minimum of a baccalaureate degree; 66268

(2) Has been licensed and employed as a teacher in another state for each of the preceding five years; 66269
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(3) Was initially licensed as a teacher in any state within the preceding fifteen years; 66271
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(4) Has not had a teacher's license suspended or revoked in any state. 66273
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(B)(1) Not later than July 1, 2012, the superintendent of public instruction shall develop a list of states that the superintendent considers to have standards for teacher licensure that are inadequate to ensure that a person to whom this section applies and who was most recently licensed to teach in that state is qualified for a professional educator license issued under section 3319.22 of the Revised Code. 66275
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(2) Following development of the list, the superintendent shall establish a panel of experts to evaluate the adequacy of the teacher licensure standards of each state on the list. Each person selected by the superintendent to be a member of the panel shall be approved by the state board of education. In evaluating the superintendent's list, the panel shall provide an opportunity for representatives of the department of education, or similar state-level agency, of each state on the list to provide evidence to refute the state's placement on the list. 66282
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Not later than April 1, 2013, the panel shall recommend to the state board that the list be approved without changes or that specified states be removed from the list prior to approval. Not later than July 1, 2013, the state board shall approve a final list of states with standards for teacher licensure that are inadequate to ensure that a person to whom this section applies and who was most recently licensed to teach in that state is qualified for a professional educator license issued under section 3319.22 of the Revised Code. 66291
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(C) Except as otherwise provided in division (E)(1) of this section, until the date on which the state board approves a final list of states with inadequate teacher licensure standards under division (B)(2) of this section, the state board shall issue a one-year provisional educator license to any applicant to whom this section applies. On and after that date, neither the state board nor the department of education shall be party to any reciprocity agreement with a state on that list that requires the state board to issue a person to whom this section applies any type of professional educator license on the basis of the person's licensure and teaching experience in that state.

(D) Upon the expiration of a provisional license issued to a person under division (C) of this section, the state board shall issue the person a professional educator license, if the person satisfies either of the following conditions:

(1) The person was issued the provisional license prior to the development of the list by the state superintendent under division (B)(1) of this section and, prior to issuance of the provisional license, the person was most recently licensed to teach by a state not on the superintendent's list or, if the final list of states with inadequate teacher licensure standards has been approved by the state board under division (B)(2) of this section, by a state not on that list.

(2) All of the following apply to the person:

(a) Prior to obtaining the provisional license, the person was most recently licensed to teach by a state on the superintendent's list or, if the final list of states with inadequate teacher licensure standards has been approved by the state board under division (B)(2) of this section, by a state on that list.

(b) The person was employed under the provisional license by

a school district; community school established under Chapter 3314. of the Revised Code; science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code; or an entity contracted by such a district or school to provide internet- or computer-based instruction or distance learning programs to students. 66331
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(c) The district or school certifies to the state board that the person's teaching was satisfactory while employed or contracted by the district or school. 66337
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(E)(1) From July 1, 2012, until the date on which the state board approves a final list of states with inadequate teacher licensure standards under division (B)(2) of this section, the state board shall issue a professional educator license to any applicant to whom this section applies and who was most recently licensed to teach by a state that is not on the list developed by the state superintendent under division (B)(1) of this section. 66340
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(2) Beginning on the date on which the state board approves a final list of states with inadequate teacher licensure standards under division (B)(2) of this section, the state board shall issue a professional educator license to any applicant to whom this section applies and who was most recently licensed to teach by a state that is not on that list. 66347
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Sec. 3319.229. The rules adopted under section 3319.22 of the Revised Code shall include requirements for the issuance and renewal of professional career-technical teaching licenses, including, but not limited to, requirements relating to life experience, professional certification, and practical ability. Nothing in sections 3319.22 to 3319.31 of the Revised Code requires, and the state board of education shall not adopt a rule requiring, completion of a degree applicable to the career field, classroom teaching, or an area of licensure for the issuance or 66353
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renewal of a professional career-technical teaching license. 66362

Sec. 3319.26. (A) The state board of education shall adopt 66363
rules establishing the standards and requirements for obtaining an 66364
alternative resident educator license for teaching in grades ~~four~~ 66365
kindergarten to twelve, or the equivalent, in a designated subject 66366
area. ~~However, an alternative resident educator license or~~ in the 66367
area of intervention specialist, as defined by rule of the state 66368
board, ~~shall be valid for teaching in grades kindergarten to~~ 66369
~~twelve.~~ 66370

(B) The superintendent of public instruction and the 66371
chancellor of the Ohio board of regents jointly shall develop an 66372
intensive pedagogical training institute to provide instruction in 66373
the principles and practices of teaching for individuals seeking 66374
an alternative resident educator license. The instruction shall 66375
cover such topics as student development and learning, pupil 66376
assessment procedures, curriculum development, classroom 66377
management, and teaching methodology. 66378

(C) The rules adopted under this section shall require 66379
applicants for the alternative resident educator license to 66380
satisfy the following conditions prior to issuance of the license, 66381
but they shall not require applicants to have completed a major in 66382
the subject area for which application is being made: 66383

(1) Hold a minimum of a baccalaureate degree; 66384

(2) Successfully complete the pedagogical training institute 66385
described in division (B) of this section; or a summer training 66386
institute provided to participants of a teacher preparation 66387
program that is operated by a nonprofit organization and has been 66388
approved by the chancellor. The chancellor shall approve any such 66389
program that requires participants to hold a bachelor's degree; 66390
have a cumulative undergraduate grade point average of at least 66391

2.5 out of 4.0, or its equivalent; and successfully complete the 66392
program's summer training institute. 66393

(3) Pass an examination in the subject area for which 66394
application is being made. 66395

(D) An alternative resident educator license shall be valid 66396
for four years, except that the state board, on a case-by-case 66397
basis, may extend the license's duration as necessary to enable 66398
the license holder to complete the Ohio teacher residency program 66399
established under section 3319.223 of the Revised Code. 66400

(E) The rules shall require the holder of an alternative 66401
resident educator license, as a condition of continuing to hold 66402
the license, to do all of the following: 66403

(1) Participate in the Ohio teacher residency program; 66404

(2) Show satisfactory progress in taking and successfully 66405
completing ~~at~~ one of the following: 66406

(a) At least twelve additional semester hours, or the 66407
equivalent, of college coursework in the principles and practices 66408
of teaching in such topics as student development and learning, 66409
pupil assessment procedures, curriculum development, classroom 66410
management, and teaching methodology; 66411

(b) Professional development provided by a teacher 66412
preparation program that has been approved by the chancellor under 66413
division (C)(2) of this section. 66414

(3) Take an assessment of professional knowledge in the 66415
second year of teaching under the license. 66416

(F) The rules shall provide for the granting of a 66417
professional educator license to a holder of an alternative 66418
resident educator license upon successfully completing all of the 66419
following: 66420

(1) Four years of teaching under the alternative license; 66421

(2) The ~~twelve semester hours, or the equivalent, of the~~ 66422
additional college coursework or professional development 66423
described in division (E)(2) of this section; 66424

(3) The assessment of professional knowledge described in 66425
division (E)(3) of this section. The standards for successfully 66426
completing this assessment and the manner of conducting the 66427
assessment shall be the same as for any other individual who is 66428
required to take the assessment pursuant to rules adopted by the 66429
state board under section 3319.22 of the Revised Code. 66430

(4) The Ohio teacher residency program; 66431

(5) All other requirements for a professional educator 66432
license adopted by the state board under section 3319.22 of the 66433
Revised Code. 66434

(G) A person who is assigned to teach in this state as a 66435
participant in the teach for America program or who has completed 66436
two years of teaching in another state as a participant in that 66437
program shall be eligible for a license only under section 66438
3319.227 of the Revised Code and shall not be eligible for a 66439
license under this section. 66440

Sec. 3319.31. (A) As used in this section and sections 66441
3123.41 to 3123.50 and 3319.311 of the Revised Code, "license" 66442
means a certificate, license, or permit described in this chapter 66443
or in division (B) of section 3301.071 or in section 3301.074 of 66444
the Revised Code. 66445

(B) For any of the following reasons, the state board of 66446
education, in accordance with Chapter 119. and section 3319.311 of 66447
the Revised Code, may refuse to issue a license to an applicant; 66448
may limit a license it issues to an applicant; may suspend, 66449
revoke, or limit a license that has been issued to any person; or 66450
may revoke a license that has been issued to any person and has 66451

expired:	66452
(1) Engaging in an immoral act, incompetence, negligence, or conduct that is unbecoming to the applicant's or person's position;	66453 66454 66455
(2) A plea of guilty to, a finding of guilt by a jury or court of, or a conviction of any of the following:	66456 66457
(a) A felony other than a felony listed in division (C) of this section;	66458 66459
(b) An offense of violence other than an offense of violence listed in division (C) of this section;	66460 66461
(c) A theft offense, as defined in section 2913.01 of the Revised Code, other than a theft offense listed in division (C) of this section;	66462 66463 66464
(d) A drug abuse offense, as defined in section 2925.01 of the Revised Code, that is not a minor misdemeanor, other than a drug abuse offense listed in division (C) of this section;	66465 66466 66467
(e) A violation of an ordinance of a municipal corporation that is substantively comparable to an offense listed in divisions (B)(2)(a) to (d) of this section.	66468 66469 66470
(3) A judicial finding of eligibility for intervention in lieu of conviction under section 2951.041 of the Revised Code, or agreeing to participate in a pre-trial diversion program under section 2935.36 of the Revised Code, or a similar diversion program under rules of a court, for any offense listed in division (B)(2) or (C) of this section;	66471 66472 66473 66474 66475 66476
(4) Failure to comply with section 3314.40, 3319.313, 3326.24, <u>3328.19</u> , or 5126.253 of the Revised Code.	66477 66478
(C) Upon learning of a plea of guilty to, a finding of guilt by a jury or court of, or a conviction of any of the offenses listed in this division by a person who holds a current or expired	66479 66480 66481

license or is an applicant for a license or renewal of a license, 66482
the state board or the superintendent of public instruction, if 66483
the state board has delegated the duty pursuant to division (D) of 66484
this section, shall by a written order revoke the person's license 66485
or deny issuance or renewal of the license to the person. The 66486
state board or the superintendent shall revoke a license that has 66487
been issued to a person to whom this division applies and has 66488
expired in the same manner as a license that has not expired. 66489

Revocation of a license or denial of issuance or renewal of a 66490
license under this division is effective immediately at the time 66491
and date that the board or superintendent issues the written order 66492
and is not subject to appeal in accordance with Chapter 119. of 66493
the Revised Code. Revocation of a license or denial of issuance or 66494
renewal of license under this division remains in force during the 66495
pendency of an appeal by the person of the plea of guilty, finding 66496
of guilt, or conviction that is the basis of the action taken 66497
under this division. 66498

The state board or superintendent shall take the action 66499
required by this division for a violation of division (B)(1), (2), 66500
(3), or (4) of section 2919.22 of the Revised Code; a violation of 66501
section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 66502
2903.12, 2903.15, 2905.01, 2905.02, 2905.05, 2905.11, 2907.02, 66503
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.21, 2907.22, 66504
2907.23, 2907.24, 2907.241, 2907.25, 2907.31, 2907.311, 2907.32, 66505
2907.321, 2907.322, 2907.323, 2907.33, 2907.34, 2909.02, 2909.22, 66506
2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.44, 66507
2917.01, 2917.02, 2917.03, 2917.31, 2917.33, 2919.12, 2919.121, 66508
2919.13, 2921.02, 2921.03, 2921.04, 2921.05, 2921.11, 2921.34, 66509
2921.41, 2923.122, 2923.123, 2923.161, 2923.17, 2923.21, 2925.02, 66510
2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.13, 2925.22, 66511
2925.23, 2925.24, 2925.32, 2925.36, 2925.37, 2927.24, or 3716.11 66512
of the Revised Code; a violation of section 2905.04 of the Revised 66513

Code as it existed prior to July 1, 1996; a violation of section 66514
2919.23 of the Revised Code that would have been a violation of 66515
section 2905.04 of the Revised Code as it existed prior to July 1, 66516
1996, had the violation been committed prior to that date; 66517
felonious sexual penetration in violation of former section 66518
2907.12 of the Revised Code; or a violation of an ordinance of a 66519
municipal corporation that is substantively comparable to an 66520
offense listed in this paragraph. 66521

(D) The state board may delegate to the superintendent of 66522
public instruction the authority to revoke a person's license or 66523
to deny issuance or renewal of a license to a person under 66524
division (C) or (F) of this section. 66525

(E)(1) If the plea of guilty, finding of guilt, or conviction 66526
that is the basis of the action taken under division (B)(2) or (C) 66527
of this section, or under the version of division (F) of section 66528
3319.311 of the Revised Code in effect prior to ~~the effective date~~ 66529
~~of this amendment~~ September 12, 2008, is overturned on appeal, 66530
upon exhaustion of the criminal appeal, the clerk of the court 66531
that overturned the plea, finding, or conviction or, if 66532
applicable, the clerk of the court that accepted an appeal from 66533
the court that overturned the plea, finding, or conviction, shall 66534
notify the state board that the plea, finding, or conviction has 66535
been overturned. Within thirty days after receiving the 66536
notification, the state board shall initiate proceedings to 66537
reconsider the revocation or denial of the person's license in 66538
accordance with division (E)(2) of this section. In addition, the 66539
person whose license was revoked or denied may file with the state 66540
board a petition for reconsideration of the revocation or denial 66541
along with appropriate court documents. 66542

(2) Upon receipt of a court notification or a petition and 66543
supporting court documents under division (E)(1) of this section, 66544
the state board, after offering the person an opportunity for an 66545

adjudication hearing under Chapter 119. of the Revised Code, shall 66546
determine whether the person committed the act in question in the 66547
prior criminal action against the person that is the basis of the 66548
revocation or denial and may continue the revocation or denial, 66549
may reinstate the person's license, with or without limits, or may 66550
grant the person a new license, with or without limits. The 66551
decision of the board shall be based on grounds for revoking, 66552
denying, suspending, or limiting a license adopted by rule under 66553
division (G) of this section and in accordance with the 66554
evidentiary standards the board employs for all other licensure 66555
hearings. The decision of the board under this division is subject 66556
to appeal under Chapter 119. of the Revised Code. 66557

(3) A person whose license is revoked or denied under 66558
division (C) of this section shall not apply for any license if 66559
the plea of guilty, finding of guilt, or conviction that is the 66560
basis of the revocation or denial, upon completion of the criminal 66561
appeal, either is upheld or is overturned but the state board 66562
continues the revocation or denial under division (E)(2) of this 66563
section and that continuation is upheld on final appeal. 66564

(F) The state board may take action under division (B) of 66565
this section, and the state board or the superintendent shall take 66566
the action required under division (C) of this section, on the 66567
basis of substantially comparable conduct occurring in a 66568
jurisdiction outside this state or occurring before a person 66569
applies for or receives any license. 66570

(G) The state board may adopt rules in accordance with 66571
Chapter 119. of the Revised Code to carry out this section and 66572
section 3319.311 of the Revised Code. 66573

Sec. 3319.311. (A)(1) The state board of education, or the 66574
superintendent of public instruction on behalf of the board, may 66575
investigate any information received about a person that 66576

reasonably appears to be a basis for action under section 3319.31 66577
of the Revised Code, including information received pursuant to 66578
section 3314.40, 3319.291, 3319.313, 3326.24, 3328.19, 5126.253, 66579
or 5153.176 of the Revised Code. Except as provided in division 66580
(A)(2) of this section, the board shall contract with the office 66581
of the Ohio attorney general to conduct any investigation of that 66582
nature. The board shall pay for the costs of the contract only 66583
from moneys in the state board of education licensure fund 66584
established under section 3319.51 of the Revised Code. Except as 66585
provided in division (A)(2) of this section, all information 66586
received pursuant to section 3314.40, 3319.291, 3319.313, 3326.24, 66587
3328.19, 5126.253, or 5153.176 of the Revised Code, and all 66588
information obtained during an investigation is confidential and 66589
is not a public record under section 149.43 of the Revised Code. 66590
If an investigation is conducted under this division regarding 66591
information received about a person and no action is taken against 66592
the person under this section or section 3319.31 of the Revised 66593
Code within two years of the completion of the investigation, all 66594
records of the investigation shall be expunged. 66595

(2) In the case of a person about whom the board has learned 66596
of a plea of guilty to, finding of guilt by a jury or court of, or 66597
a conviction of an offense listed in division (C) of section 66598
3319.31 of the Revised Code, or substantially comparable conduct 66599
occurring in a jurisdiction outside this state, the board or the 66600
superintendent of public instruction need not conduct any further 66601
investigation and shall take the action required by division (C) 66602
or (F) of that section. Except as provided in division (G) of this 66603
section, all information obtained by the board or the 66604
superintendent of public instruction pertaining to the action is a 66605
public record under section 149.43 of the Revised Code. 66606

(B) The superintendent of public instruction shall review the 66607
results of each investigation of a person conducted under division 66608

(A)(1) of this section and shall determine, on behalf of the state board, whether the results warrant initiating action under division (B) of section 3319.31 of the Revised Code. The superintendent shall advise the board of such determination at a meeting of the board. Within fourteen days of the next meeting of the board, any member of the board may ask that the question of initiating action under section 3319.31 of the Revised Code be placed on the board's agenda for that next meeting. Prior to initiating that action against any person, the person's name and any other personally identifiable information shall remain confidential.

(C) The board shall take no action against a person under division (B) of section 3319.31 of the Revised Code without providing the person with written notice of the charges and with an opportunity for a hearing in accordance with Chapter 119. of the Revised Code.

(D) For purposes of an investigation under division (A)(1) of this section or a hearing under division (C) of this section or under division (E)(2) of section 3319.31 of the Revised Code, the board, or the superintendent on behalf of the board, may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and the production of books, accounts, papers, records, documents, and testimony. The issuance of subpoenas under this division may be by certified mail or personal delivery to the person.

(E) The superintendent, on behalf of the board, may enter into a consent agreement with a person against whom action is being taken under division (B) of section 3319.31 of the Revised Code. The board may adopt rules governing the superintendent's action under this division.

(F) No surrender of a license shall be effective until the board takes action to accept the surrender unless the surrender is

pursuant to a consent agreement entered into under division (E) of 66641
this section. 66642

(G) The name of any person who is not required to report 66643
information under section 3314.40, 3319.313, 3326.24, 3328.19, 66644
5126.253, or 5153.176 of the Revised Code, but who in good faith 66645
provides information to the state board or superintendent of 66646
public instruction about alleged misconduct committed by a person 66647
who holds a license or has applied for issuance or renewal of a 66648
license, shall be confidential and shall not be released. Any such 66649
person shall be immune from any civil liability that otherwise 66650
might be incurred or imposed for injury, death, or loss to person 66651
or property as a result of the provision of that information. 66652

(H)(1) No person shall knowingly make a false report to the 66653
superintendent of public instruction or the state board of 66654
education alleging misconduct by an employee of a public or 66655
chartered nonpublic school or an employee of the operator of a 66656
community school established under Chapter 3314. or a 66657
college-preparatory boarding school established under Chapter 66658
3328. of the Revised Code. 66659

(2)(a) In any civil action brought against a person in which 66660
it is alleged and proved that the person violated division (H)(1) 66661
of this section, the court shall award the prevailing party 66662
reasonable attorney's fees and costs that the prevailing party 66663
incurred in the civil action or as a result of the false report 66664
that was the basis of the violation. 66665

(b) If a person is convicted of or pleads guilty to a 66666
violation of division (H)(1) of this section, if the subject of 66667
the false report that was the basis of the violation was charged 66668
with any violation of a law or ordinance as a result of the false 66669
report, and if the subject of the false report is found not to be 66670
guilty of the charges brought against the subject as a result of 66671
the false report or those charges are dismissed, the court that 66672

sentences the person for the violation of division (H)(1) of this 66673
section, as part of the sentence, shall order the person to pay 66674
restitution to the subject of the false report, in an amount equal 66675
to reasonable attorney's fees and costs that the subject of the 66676
false report incurred as a result of or in relation to the 66677
charges. 66678

Sec. 3319.39. (A)(1) Except as provided in division (F)(2)(b) 66679
of section 109.57 of the Revised Code, the appointing or hiring 66680
officer of the board of education of a school district, the 66681
governing board of an educational service center, or of a 66682
chartered nonpublic school shall request the superintendent of the 66683
bureau of criminal identification and investigation to conduct a 66684
criminal records check with respect to any applicant who has 66685
applied to the school district, educational service center, or 66686
school for employment in any position. The appointing or hiring 66687
officer shall request that the superintendent include information 66688
from the federal bureau of investigation in the criminal records 66689
check, unless all of the following apply to the applicant: 66690

(a) The applicant is applying to be an instructor of adult 66691
education. 66692

(b) The duties of the position for which the applicant is 66693
applying do not involve routine interaction with a child or 66694
regular responsibility for the care, custody, or control of a 66695
child or, if the duties do involve such interaction or 66696
responsibility, during any period of time in which the applicant, 66697
if hired, has such interaction or responsibility, another employee 66698
of the school district, educational service center, or chartered 66699
nonpublic school will be present in the same room with the child 66700
or, if outdoors, will be within a thirty-yard radius of the child 66701
or have visual contact with the child. 66702

(c) The applicant presents proof that the applicant has been 66703

a resident of this state for the five-year period immediately 66704
prior to the date upon which the criminal records check is 66705
requested or provides evidence that within that five-year period 66706
the superintendent has requested information about the applicant 66707
from the federal bureau of investigation in a criminal records 66708
check. 66709

(2) A person required by division (A)(1) of this section to 66710
request a criminal records check shall provide to each applicant a 66711
copy of the form prescribed pursuant to division (C)(1) of section 66712
109.572 of the Revised Code, provide to each applicant a standard 66713
impression sheet to obtain fingerprint impressions prescribed 66714
pursuant to division (C)(2) of section 109.572 of the Revised 66715
Code, obtain the completed form and impression sheet from each 66716
applicant, and forward the completed form and impression sheet to 66717
the superintendent of the bureau of criminal identification and 66718
investigation at the time the person requests a criminal records 66719
check pursuant to division (A)(1) of this section. 66720

(3) An applicant who receives pursuant to division (A)(2) of 66721
this section a copy of the form prescribed pursuant to division 66722
(C)(1) of section 109.572 of the Revised Code and a copy of an 66723
impression sheet prescribed pursuant to division (C)(2) of that 66724
section and who is requested to complete the form and provide a 66725
set of fingerprint impressions shall complete the form or provide 66726
all the information necessary to complete the form and shall 66727
provide the impression sheet with the impressions of the 66728
applicant's fingerprints. If an applicant, upon request, fails to 66729
provide the information necessary to complete the form or fails to 66730
provide impressions of the applicant's fingerprints, the board of 66731
education of a school district, governing board of an educational 66732
service center, or governing authority of a chartered nonpublic 66733
school shall not employ that applicant for any position. 66734

(4) Notwithstanding any provision of this section to the 66735

contrary, an applicant who meets the conditions prescribed in 66736
divisions (A)(1)(a) and (b) of this section and who, within the 66737
two-year period prior to the date of application, was the subject 66738
of a criminal records check under this section prior to being 66739
hired for short-term employment with the school district, 66740
educational service center, or chartered nonpublic school to which 66741
application is being made shall not be required to undergo a 66742
criminal records check prior to the applicant's rehiring by that 66743
district, service center, or school. 66744

(B)(1) Except as provided in rules adopted by the department 66745
of education in accordance with division (E) of this section and 66746
as provided in division (B)(3) of this section, no board of 66747
education of a school district, no governing board of an 66748
educational service center, and no governing authority of a 66749
chartered nonpublic school shall employ a person if the person 66750
previously has been convicted of or pleaded guilty to any of the 66751
following: 66752

(a) A violation of section 2903.01, 2903.02, 2903.03, 66753
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 66754
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 66755
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 66756
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 66757
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 66758
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 66759
2925.06, or 3716.11 of the Revised Code, a violation of section 66760
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 66761
violation of section 2919.23 of the Revised Code that would have 66762
been a violation of section 2905.04 of the Revised Code as it 66763
existed prior to July 1, 1996, had the violation been committed 66764
prior to that date, a violation of section 2925.11 of the Revised 66765
Code that is not a minor drug possession offense, or felonious 66766
sexual penetration in violation of former section 2907.12 of the 66767

Revised Code; 66768

(b) A violation of an existing or former law of this state, 66769
another state, or the United States that is substantially 66770
equivalent to any of the offenses or violations described in 66771
division (B)(1)(a) of this section. 66772

(2) A board, governing board of an educational service 66773
center, or a governing authority of a chartered nonpublic school 66774
may employ an applicant conditionally until the criminal records 66775
check required by this section is completed and the board or 66776
governing authority receives the results of the criminal records 66777
check. If the results of the criminal records check indicate that, 66778
pursuant to division (B)(1) of this section, the applicant does 66779
not qualify for employment, the board or governing authority shall 66780
release the applicant from employment. 66781

(3) No board and no governing authority of a chartered 66782
nonpublic school shall employ a teacher who previously has been 66783
convicted of or pleaded guilty to any of the offenses listed in 66784
section 3319.31 of the Revised Code. 66785

(C)(1) Each board and each governing authority of a chartered 66786
nonpublic school shall pay to the bureau of criminal 66787
identification and investigation the fee prescribed pursuant to 66788
division (C)(3) of section 109.572 of the Revised Code for each 66789
criminal records check conducted in accordance with that section 66790
upon the request pursuant to division (A)(1) of this section of 66791
the appointing or hiring officer of the board or governing 66792
authority. 66793

(2) A board and the governing authority of a chartered 66794
nonpublic school may charge an applicant a fee for the costs it 66795
incurs in obtaining a criminal records check under this section. A 66796
fee charged under this division shall not exceed the amount of 66797
fees the board or governing authority pays under division (C)(1) 66798

of this section. If a fee is charged under this division, the 66799
board or governing authority shall notify the applicant at the 66800
time of the applicant's initial application for employment of the 66801
amount of the fee and that, unless the fee is paid, the board or 66802
governing authority will not consider the applicant for 66803
employment. 66804

(D) The report of any criminal records check conducted by the 66805
bureau of criminal identification and investigation in accordance 66806
with section 109.572 of the Revised Code and pursuant to a request 66807
under division (A)(1) of this section is not a public record for 66808
the purposes of section 149.43 of the Revised Code and shall not 66809
be made available to any person other than the applicant who is 66810
the subject of the criminal records check or the applicant's 66811
representative, the board or governing authority requesting the 66812
criminal records check or its representative, and any court, 66813
hearing officer, or other necessary individual involved in a case 66814
dealing with the denial of employment to the applicant. 66815

(E) The department of education shall adopt rules pursuant to 66816
Chapter 119. of the Revised Code to implement this section, 66817
including rules specifying circumstances under which the board or 66818
governing authority may hire a person who has been convicted of an 66819
offense listed in division (B)(1) or (3) of this section but who 66820
meets standards in regard to rehabilitation set by the department. 66821

The department shall amend rule 3301-83-23 of the Ohio 66822
Administrative Code that took effect August 27, 2009, and that 66823
specifies the offenses that disqualify a person for employment as 66824
a school bus or school van driver and establishes rehabilitation 66825
standards for school bus and school van drivers. 66826

(F) Any person required by division (A)(1) of this section to 66827
request a criminal records check shall inform each person, at the 66828
time of the person's initial application for employment, of the 66829
requirement to provide a set of fingerprint impressions and that a 66830

criminal records check is required to be conducted and 66831
satisfactorily completed in accordance with section 109.572 of the 66832
Revised Code if the person comes under final consideration for 66833
appointment or employment as a precondition to employment for the 66834
school district, educational service center, or school for that 66835
position. 66836

(G) As used in this section: 66837

(1) "Applicant" means a person who is under final 66838
consideration for appointment or employment in a position with a 66839
board of education, governing board of an educational service 66840
center, or a chartered nonpublic school, except that "applicant" 66841
does not include a person already employed by a board or chartered 66842
nonpublic school who is under consideration for a different 66843
position with such board or school. 66844

(2) "Teacher" means a person holding an educator license or 66845
permit issued under section 3319.22 or 3319.301 of the Revised 66846
Code and teachers in a chartered nonpublic school. 66847

(3) "Criminal records check" has the same meaning as in 66848
section 109.572 of the Revised Code. 66849

(4) "Minor drug possession offense" has the same meaning as 66850
in section 2925.01 of the Revised Code. 66851

(H) If the board of education of a local school district 66852
adopts a resolution requesting the assistance of the educational 66853
service center in which the local district has territory in 66854
conducting criminal records checks of substitute teachers and 66855
substitutes for other district employees under this section, the 66856
appointing or hiring officer of such educational service center 66857
shall serve for purposes of this section as the appointing or 66858
hiring officer of the local board in the case of hiring substitute 66859
teachers and other substitute employees for the local district. 66860

Sec. 3319.57. (A) A grant program is hereby established under 66861
which the department of education shall award grants to assist 66862
certain schools in a city, exempted village, local, or joint 66863
vocational school district in implementing one of the following 66864
innovations: 66865

(1) The use of instructional specialists to mentor and 66866
support classroom teachers; 66867

(2) The use of building managers to supervise the 66868
administrative functions of school operation so that a school 66869
principal can focus on supporting instruction, providing 66870
instructional leadership, and engaging teachers as part of the 66871
instructional leadership team; 66872

(3) The reconfiguration of school leadership structure in a 66873
manner that allows teachers to serve in leadership roles so that 66874
teachers may share the responsibility for making and implementing 66875
school decisions; 66876

(4) The adoption of new models for restructuring the school 66877
day or school year, such as including teacher planning and 66878
collaboration time as part of the school day; 66879

(5) The creation of smaller schools or smaller units within 66880
larger schools for the purpose of facilitating teacher 66881
collaboration to improve and advance the professional practice of 66882
teaching; 66883

(6) The implementation of "grow your own" recruitment 66884
strategies that are designed to assist individuals who show a 66885
commitment to education become licensed teachers, to assist 66886
experienced teachers obtain licensure in subject areas for which 66887
there is need, and to assist teachers in becoming principals; 66888

(7) The provision of better conditions for new teachers, such 66889
as reduced teaching load and reduced class size; 66890

(8) The provision of incentives to attract qualified mathematics, science, or special education teachers;	66891 66892
(9) The development and implementation of a partnership with teacher preparation programs at colleges and universities to help attract teachers qualified to teach in shortage areas;	66893 66894 66895
(10) The implementation of a program to increase the cultural competency of both new and veteran teachers;	66896 66897
(11) The implementation of a program to increase the subject matter competency of veteran teachers.	66898 66899
(B) To qualify for a grant to implement one of the innovations described in division (A) of this section, a school must meet both of the following criteria:	66900 66901 66902
(1) Be hard to staff, as defined by the department.	66903
(2) Use existing school district funds for the implementation of the innovation in an amount equal to the grant amount multiplied by (1 - the district's state share percentage for the fiscal year in which the grant is awarded).	66904 66905 66906 66907
For purposes of division (B)(2) of this section, "state share percentage" has the same meaning as in section 3306.02 <u>3317.02</u> of the Revised Code.	66908 66909 66910
(C) The amount and number of grants awarded under this section shall be determined by the department based on any appropriations made by the general assembly for grants under this section.	66911 66912 66913 66914
(D) The state board of education shall adopt rules for the administration of this grant program.	66915 66916
<u>Sec. 3319.58.</u> (A) As used in this section, "core subject area" has the same meaning as in section 3319.074 of the Revised Code.	66917 66918 66919

(B) Each year, the board of education of each city, exempted village, and local school district, governing authority of each community school established under Chapter 3314. of the Revised Code, and governing body of each STEM school established under Chapter 3326. of the Revised Code with a building in the lowest ten percentiles of performance index score, as ranked under section 3302.21 of the Revised Code, shall require each classroom teacher teaching in a core subject area in such a building to register for and take all written examinations prescribed by the state board of education for licensure to teach that core subject area and the grade level to which the teacher is assigned under section 3319.22 of the Revised Code. However, if a teacher who takes a prescribed examination under this division passes that examination and provides proof of that passage to the teacher's employer, the teacher shall not be required to take the examination again for three years, regardless of the performance index score ranking of the building in which the teacher teaches. No teacher shall be responsible for the cost of taking an examination under this division.

(C) Each district board of education, each community school governing authority, and each STEM school governing body may use the results of a teacher's examinations required under division (B) of this section in developing and revising professional development plans and in deciding whether or not to continue employing the teacher in accordance with the provisions of this chapter or Chapter 3314. or 3326. of the Revised Code. However, no decision to terminate or not to renew a teacher's employment contract shall be made solely on the basis of the results of a teacher's examination under this section until and unless the teacher has not attained a passing score on the same required examination for at least three consecutive administrations of that examination.

Sec. 3319.71. (A) The school health services advisory council shall make recommendations on the following topics:

(1) The content of the course of instruction required to obtain a school nurse license under section 3319.221 of the Revised Code;

(2) The content of the course of instruction required to obtain a school nurse wellness coordinator license under section 3319.221 of the Revised Code;

(3) Best practices for the use of school nurses and school nurse wellness coordinators in providing health and wellness programs for students and employees of school districts, community schools established under Chapter 3314. of the Revised Code, and STEM schools established under Chapter 3326. of the Revised Code.

(B) The council shall issue its initial recommendations not later than March 31, 2010, and may issue subsequent recommendations as it considers necessary. Copies of all recommendations shall be provided to the state board of education, the chancellor of the Ohio board of regents, and the board of nursing, ~~and the health care coverage and quality council.~~

Sec. 3323.052. Not later than sixty days after the effective date of this section, the department of education shall develop a document that compares a parent's and child's rights under this chapter and 20 U.S.C. 1400 et seq. with the parent's and child's rights under the Jon Peterson special needs scholarship program, established in sections 3310.51 to 3310.64 of the Revised Code, including the deadline for application for a scholarship or renewal of a scholarship and notice of that application to the child's school district, prescribed in division (C) of section 3310.52 of the Revised Code, and the provisions of divisions (A) and (B) of section 3310.53 of the Revised Code. The department

shall revise that document as necessary to reflect any pertinent 66982
changes in state or federal statutory law, rule, or regulation 66983
enacted or adopted after the initial document is developed. The 66984
department and each school district shall ensure that the document 66985
prescribed in this section is included in, appended to, or 66986
otherwise distributed in conjunction with the notice required 66987
under 20 U.S.C. 1415(d), and any provision of the Code of Federal 66988
Regulations implementing that requirement, in the manner and at 66989
all the times specified for such notice in federal law or 66990
regulation. As used in this section, a "child's school district" 66991
means the school district in which the child is entitled to attend 66992
school under section 3313.64 or 3313.65 of the Revised Code. 66993

Sec. 3323.09. (A) As used in this section: 66994

(1) "Home" has the meaning given in section 3313.64 of the 66995
Revised Code. 66996

(2) "Preschool child" means a child who is at least age three 66997
but under age six on the thirtieth day of September of an academic 66998
year. 66999

(B) Each county DD board shall establish special education 67000
programs for all children with disabilities who in accordance with 67001
section 3323.04 of the Revised Code have been placed in special 67002
education programs operated by the county board and for preschool 67003
children who are developmentally delayed or at risk of being 67004
developmentally delayed. The board annually shall submit to the 67005
department of education a plan for the provision of these programs 67006
and, if applicable, a request for approval of units under section 67007
3317.05 of the Revised Code. The superintendent of public 67008
instruction shall review the plan and approve or modify it in 67009
accordance with rules adopted by the state board of education 67010
under section 3301.07 of the Revised Code. The superintendent of 67011
public instruction shall compile the plans submitted by county 67012

boards and shall submit a comprehensive plan to the state board. 67013

A county DD board may combine transportation for children 67014
enrolled in classes funded under section 3317.20 or units approved 67015
under section 3317.05 with transportation for children and adults 67016
enrolled in programs and services offered by the board under 67017
~~section 5126.12~~ Chapter 5126. of the Revised Code. 67018

(C) A county DD board that during the school year provided 67019
special education pursuant to this section for any child with 67020
mental disabilities under twenty-two years of age shall prepare 67021
and submit the following reports and statements: 67022

(1) The board shall prepare a statement for each child who at 67023
the time of receiving such special education was a resident of a 67024
home and was not in the legal or permanent custody of an Ohio 67025
resident or a government agency in this state, and whose natural 67026
or adoptive parents are not known to have been residents of this 67027
state subsequent to the child's birth. The statement shall contain 67028
the child's name, the name of the child's school district of 67029
residence, the name of the county board providing the special 67030
education, and the number of months, including any fraction of a 67031
month, it was provided. Not later than the thirtieth day of June, 67032
the board shall forward a certified copy of such statement to both 67033
the director of developmental disabilities and to the home. 67034

Within thirty days after its receipt of a statement, the home 67035
shall pay tuition to the county board computed in the manner 67036
prescribed by section 3323.141 of the Revised Code. 67037

(2) The board shall prepare a report for each school district 67038
that is the school district of residence of one or more of such 67039
children for whom statements are not required by division (C)(1) 67040
of this section. The report shall contain the name of the county 67041
board providing special education, the name of each child 67042
receiving special education, the number of months, including 67043

fractions of a month, that the child received it, and the name of 67044
the child's school district of residence. Not later than the 67045
thirtieth day of June, the board shall forward certified copies of 67046
each report to the school district named in the report, the 67047
superintendent of public instruction, and the director of 67048
developmental disabilities. 67049

Sec. 3323.091. (A) The department of mental health, the 67050
department of developmental disabilities, the department of youth 67051
services, and the department of rehabilitation and correction 67052
shall establish and maintain special education programs for 67053
children with disabilities in institutions under their 67054
jurisdiction according to standards adopted by the state board of 67055
education. 67056

(B) The superintendent of each state institution required to 67057
provide services under division (A) of this section, and each 67058
county DD board, providing special education for preschool 67059
children with disabilities under this chapter may apply to the 67060
state department of education for unit funding, which shall be 67061
paid in accordance with sections 3317.052 and 3317.053 of the 67062
Revised Code. 67063

The superintendent of each state institution required to 67064
provide services under division (A) of this section may apply to 67065
the department of education for special education and related 67066
services weighted funding for children with disabilities other 67067
than preschool children with disabilities, calculated in 67068
accordance with section 3317.201 of the Revised Code. 67069

Each county DD board providing special education for children 67070
with disabilities other than preschool children with disabilities 67071
may apply to the department of education for base cost and special 67072
education and related services weighted funding calculated in 67073
accordance with section 3317.20 of the Revised Code. 67074

(C) In addition to the authorization to apply for state funding described in division (B) of this section, each state institution required to provide services under division (A) of this section is entitled to tuition payments calculated in the manner described in division (C) of this section.

On or before the thirtieth day of June of each year, the superintendent of each institution that during the school year provided special education pursuant to this section shall prepare a statement for each child with a disability under twenty-two years of age who has received special education. The statement shall contain the child's data verification code assigned pursuant to division (D)(2) of section 3301.0714 of the Revised Code and the name of the child's school district of residence. Within sixty days after receipt of such statement, the department of education shall perform one of the following:

(1) For any child except a preschool child with a disability described in division (C)(2) of this section, pay to the institution submitting the statement an amount equal to the tuition calculated under division (A) of section 3317.08 of the Revised Code for the period covered by the statement, and deduct the same from the amount of state funds, if any, payable under ~~sections 3306.13 and 3317.023~~ Chapter 3317. of the Revised Code, to the child's school district of residence or, if the amount of such state funds is insufficient, require the child's school district of residence to pay the institution submitting the statement an amount equal to the amount determined under this division.

(2) For any preschool child with a disability not included in a unit approved under division (B) of section 3317.05 of the Revised Code, perform the following:

(a) Pay to the institution submitting the statement an amount equal to the tuition calculated under division (B) of section

3317.08 of the Revised Code for the period covered by the 67107
statement, except that in calculating the tuition under that 67108
section the operating expenses of the institution submitting the 67109
statement under this section shall be used instead of the 67110
operating expenses of the school district of residence; 67111

(b) Deduct from the amount of state funds, if any, payable 67112
under ~~sections 3317.022 or 3306.13 and 3317.023~~ Chapter 3317. of 67113
the Revised Code to the child's school district of residence an 67114
amount equal to the amount paid under division (C)(2)(a) of this 67115
section. 67116

Sec. 3323.14. This section does not apply to any preschool 67117
child with a disability except if included in a unit approved 67118
under division (B) of section 3317.05 of the Revised Code. 67119

(A) Where a child who is a school resident of one school 67120
district receives special education from another district and the 67121
per capita cost to the educating district for that child exceeds 67122
the sum of the amount received by the educating district for that 67123
child under division (A) of section 3317.08 of the Revised Code 67124
and the amount received by the district from the state board of 67125
education for that child, then the board of education of the 67126
district of residence shall pay to the board of the school 67127
district that is providing the special education such excess cost 67128
as is determined by using a formula approved by the department of 67129
education and agreed upon in contracts entered into by the boards 67130
of the districts concerned at the time the district providing such 67131
special education accepts the child for enrollment. The department 67132
shall certify the amount of the payments under ~~Chapters 3306. and~~ 67133
Chapter 3317. of the Revised Code for such pupils with 67134
disabilities for each school year ending on the thirtieth day of 67135
July. 67136

(B) In the case of a child described in division (A) of this 67137

section who has been placed in a home, as defined in section 67138
3313.64 of the Revised Code, pursuant to the order of a court and 67139
who is not subject to section 3323.141 of the Revised Code, the 67140
district providing the child with special education and related 67141
services may charge to the child's district of residence the 67142
excess cost determined by formula approved by the department, 67143
regardless of whether the district of residence has entered into a 67144
contract with the district providing the services. If the district 67145
providing the services chooses to charge excess costs, the 67146
district may report the amount calculated under this division to 67147
the department. 67148

(C) If a district providing special education for a child 67149
reports an amount for the excess cost of those services, as 67150
authorized and calculated under division (A) or (B) of this 67151
section, the department shall pay that amount of excess cost to 67152
the district providing the services and shall deduct that amount 67153
from the child's district of residence in accordance with division 67154
~~(N)~~(K) of section 3317.023 of the Revised Code. 67155

Sec. 3323.142. This section does not apply to any preschool 67156
child with a disability except if included in a unit approved 67157
under division (B) of section 3317.05 of the Revised Code. 67158

As used in this section, "per pupil amount" for a preschool 67159
child with a disability included in such an approved unit means 67160
the amount determined by dividing the amount received for the 67161
classroom unit in which the child has been placed by the number of 67162
children in the unit. For any other child, "per pupil amount" 67163
means the amount paid for the child under section 3317.20 of the 67164
Revised Code. 67165

When a school district places or has placed a child with a 67166
county DD board for special education, but another district is 67167
responsible for tuition under section 3313.64 or 3313.65 of the 67168

Revised Code and the child is not a resident of the territory 67169
served by the county DD board, the board may charge the district 67170
responsible for tuition with the educational costs in excess of 67171
the per pupil amount received by the board under ~~Chapters 3306-~~ 67172
~~and Chapter~~ 3317. of the Revised Code. The amount of the excess 67173
cost shall be determined by the formula established by rule of the 67174
department of education under section 3323.14 of the Revised Code, 67175
and the payment for such excess cost shall be made by the school 67176
district directly to the county DD board. 67177

A school district board of education and the county DD board 67178
that serves the school district may negotiate and contract, at or 67179
after the time of placement, for payments by the board of 67180
education to the county DD board for additional services provided 67181
to a child placed with the county DD board and whose 67182
individualized education program established pursuant to section 67183
3323.08 of the Revised Code requires additional services that are 67184
not routinely provided children in the county DD board's program 67185
but are necessary to maintain the child's enrollment and 67186
participation in the program. Additional services may include, but 67187
are not limited to, specialized supplies and equipment for the 67188
benefit of the child and instruction, training, or assistance 67189
provided by staff members other than staff members for which 67190
funding is received under Chapter ~~3306.~~ or 3317. of the Revised 67191
Code. 67192

Sec. 3323.31. The Franklin county educational service center 67193
shall establish the Ohio ~~Center~~ center for ~~Autism~~ autism and ~~Low~~ 67194
~~Incidence~~ low incidence. The ~~Center~~ center shall administer 67195
programs and coordinate services for infants, preschool and 67196
school-age children, and adults with autism and low incidence 67197
disabilities. The ~~Center's~~ center's principal focus shall be 67198
programs and services for persons with autism. The ~~Center~~ center 67199
shall be under the direction of an executive director, appointed 67200

by the superintendent of the service center in consultation with 67201
the advisory board established under section 3323.33 of the 67202
Revised Code. 67203

In addition to its other duties, the Ohio ~~Center~~ center for 67204
~~Autism~~ autism and ~~Low Incidence~~ low incidence shall participate as 67205
a member of ~~an~~ the interagency workgroup on autism, as it is 67206
established by the ~~department~~ director of developmental 67207
disabilities ~~and~~ under section 5123.0419 of the Revised Code. The 67208
center shall provide technical assistance and support to the 67209
department of developmental disabilities in the department's 67210
leadership role to develop and implement the ~~initiatives~~ 67211
~~identified by~~ projects and activities of the workgroup. 67212

Sec. 3324.05. (A) Each school district shall submit an annual 67213
report to the department of education specifying the number of 67214
students in each of grades kindergarten through ~~twelfth~~ twelve 67215
screened, the number assessed, and the number identified as gifted 67216
in each category specified in section 3324.03 of the Revised Code. 67217

(B) The department of education shall audit each school 67218
district's identification numbers at least once every three years 67219
and may select any district at random or upon complaint or 67220
suspicion of noncompliance for a further audit to determine 67221
compliance with sections 3324.03 to 3324.06 of the Revised Code. 67222

(C) The department shall provide technical assistance to any 67223
district found in noncompliance under division (B) of this 67224
section. The department may reduce funds received by the district 67225
under ~~Chapters 3306. and Chapter~~ Chapter 3317. of the Revised Code by any 67226
amount if the district continues to be noncompliant. 67227

Sec. 3325.08. (A) A diploma shall be granted by the 67228
superintendent of the state school for the blind and the 67229
superintendent of the state school for the deaf to any student 67230

enrolled in one of these state schools to whom all of the 67231
following apply: 67232

(1) The student has successfully completed the individualized 67233
education program developed for the student for the student's high 67234
school education pursuant to section 3323.08 of the Revised Code; 67235

(2) Subject to section 3313.614 of the Revised Code, the 67236
student has met the assessment requirements of division (A)(2)(a) 67237
or (b) of this section, as applicable. 67238

(a) If the student entered the ninth grade prior to the date 67239
prescribed by rule of the state board of education under division 67240
~~(E)(D)~~(2) of section 3301.0712 of the Revised Code, the student 67241
either: 67242

(i) Has attained at least the applicable scores designated 67243
under division (B)(1) of section 3301.0710 of the Revised Code on 67244
all the assessments prescribed by that division unless division 67245
(L) of section 3313.61 of the Revised Code applies to the student; 67246

(ii) Has satisfied the alternative conditions prescribed in 67247
section 3313.615 of the Revised Code. 67248

(b) If the student entered the ninth grade on or after the 67249
date prescribed by rule of the state board under division 67250
~~(E)(D)~~(2) of section 3301.0712 of the Revised Code, the student 67251
has ~~attained on~~ met the requirements of the entire assessment 67252
system prescribed under division (B)(2) of section 3301.0710 of 67253
the Revised Code ~~at least the required passing composite score,~~ 67254
~~designated under division (C)(1) of section 3301.0712 of the~~ 67255
~~Revised Code~~, except to the extent that division (L) of section 67256
3313.61 of the Revised Code applies to the student. 67257

(3) The student is not eligible to receive an honors diploma 67258
granted pursuant to division (B) of this section. 67259

No diploma shall be granted under this division to anyone 67260

except as provided under this division. 67261

(B) In lieu of a diploma granted under division (A) of this 67262
section, the superintendent of the state school for the blind and 67263
the superintendent of the state school for the deaf shall grant an 67264
honors diploma, in the same manner that the boards of education of 67265
school districts grant such diplomas under division (B) of section 67266
3313.61 of the Revised Code, to any student enrolled in one of 67267
these state schools who accomplishes all of the following: 67268

(1) Successfully completes the individualized education 67269
program developed for the student for the student's high school 67270
education pursuant to section 3323.08 of the Revised Code; 67271

(2) Subject to section 3313.614 of the Revised Code, has met 67272
the assessment requirements of division (B)(2)(a) or (b) of this 67273
section, as applicable. 67274

(a) If the student entered the ninth grade prior to the date 67275
prescribed by rule of the state board under division ~~(E)~~(D)(2) of 67276
section 3301.0712 of the Revised Code, the student either: 67277

(i) Has attained at least the applicable scores designated 67278
under division (B)(1) of section 3301.0710 of the Revised Code on 67279
all the assessments prescribed under that division; 67280

(ii) Has satisfied the alternative conditions prescribed in 67281
section 3313.615 of the Revised Code. 67282

(b) If the student entered the ninth grade on or after the 67283
date prescribed by rule of the state board under division 67284
~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the student 67285
has ~~attained on~~ met the requirements of the entire assessment 67286
system prescribed under division (B)(2) of section 3301.0710 of 67287
the Revised Code ~~at least the required passing composite score,~~ 67288
~~designated under division (C)(1) of section 3301.0712 of the~~ 67289
Revised Code. 67290

(3) Has met additional criteria for granting an honors diploma. 67291
67292

These additional criteria shall be the same as those 67293
prescribed by the state board under division (B) of section 67294
3313.61 of the Revised Code for the granting of such diplomas by 67295
school districts. No honors diploma shall be granted to anyone 67296
failing to comply with this division and not more than one honors 67297
diploma shall be granted to any student under this division. 67298

(C) A diploma or honors diploma awarded under this section 67299
shall be signed by the superintendent of public instruction and 67300
the superintendent of the state school for the blind or the 67301
superintendent of the state school for the deaf, as applicable. 67302
Each diploma shall bear the date of its issue and be in such form 67303
as the school superintendent prescribes. 67304

(D) Upon granting a diploma to a student under this section, 67305
the superintendent of the state school in which the student is 67306
enrolled shall provide notice of receipt of the diploma to the 67307
board of education of the school district where the student is 67308
entitled to attend school under section 3313.64 or 3313.65 of the 67309
Revised Code when not residing at the state school for the blind 67310
or the state school for the deaf. The notice shall indicate the 67311
type of diploma granted. 67312

Sec. 3326.11. Each science, technology, engineering, and 67313
mathematics school established under this chapter and its 67314
governing body shall comply with sections 9.90, 9.91, 109.65, 67315
121.22, 149.43, 2151.357, 2151.421, 2313.18, 2921.42, 2921.43, 67316
3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 3313.18, 67317
3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 67318
3313.536, 3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 67319
3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 3313.648, 67320
3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 67321

3313.671, 3313.672, 3313.673, 3313.674, 3313.69, 3313.71, 67322
3313.716, 3313.718, 3313.719, 3313.80, 3313.801, 3313.814, 67323
3313.816, 3313.817, 3313.86, 3313.88, 3313.96, 3319.073, 3319.21, 67324
3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 67325
3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 67326
3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 67327
102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 4112., 67328
4123., 4141., and 4167. of the Revised Code as if it were a school 67329
district. 67330

Sec. 3326.33. Payments and deductions under this section for 67331
fiscal years ~~2010~~ 2012 and ~~2011~~ 2013 shall be made in accordance 67332
with section 3326.39 of the Revised Code. 67333

For each student enrolled in a science, technology, 67334
engineering, and mathematics school established under this 67335
chapter, the department of education annually shall deduct from 67336
the state education aid of a student's resident school district 67337
and, if necessary, from the payment made to the district under 67338
sections 321.24 and 323.156 of the Revised Code and pay to the 67339
school the sum of the following: 67340

(A) The sum of the formula amount plus the per pupil amount 67341
of the base funding supplements specified in divisions (C)(1) to 67342
(4) of section 3317.012 of the Revised Code. 67343

(B) If the student is receiving special education and related 67344
services pursuant to an IEP, the product of the applicable special 67345
education weight times the formula amount; 67346

(C) If the student is enrolled in vocational education 67347
programs or classes that are described in section 3317.014 of the 67348
Revised Code, are provided by the school, and are comparable as 67349
determined by the superintendent of public instruction to school 67350
district vocational education programs and classes eligible for 67351
state weighted funding under section 3317.014 of the Revised Code, 67352

the product of the applicable vocational education weight times 67353
the formula amount times the percentage of time the student spends 67354
in the vocational education programs or classes; 67355

(D) If the student is included in the poverty student count 67356
of the student's resident district, the per pupil amount of the 67357
district's payment under division (C) of section 3317.029 of the 67358
Revised Code; 67359

(E) If the student is identified as limited English 67360
proficient and the student's resident district receives a payment 67361
for services to limited English proficient students under division 67362
(F) of section 3317.029 of the Revised Code, the per pupil amount 67363
of the district's payment under that division, calculated in the 67364
same manner as per pupil payments are calculated under division 67365
(C)(6) of section 3314.08 of the Revised Code; 67366

(F) If the student's resident district receives a payment 67367
under division (G), (H), or (I) of section 3317.029 of the Revised 67368
Code, the per pupil amount of the district's payments under each 67369
division, calculated in the same manner as per pupil payments are 67370
calculated under divisions (C)(7) and (8) of section 3314.08 of 67371
the Revised Code; 67372

(G) If the student's resident district receives a parity aid 67373
payment under section 3317.0217 of the Revised Code, the per pupil 67374
amount calculated for the district under division (C) or (D) of 67375
that section. 67376

Sec. 3326.39. For purposes of applying sections 3326.31 to 67377
3326.37 of the Revised Code to fiscal years ~~2010~~ 2012 and ~~2011~~ 67378
2013: 67379

(A) The formula amount for STEM schools for each of fiscal 67380
~~year 2010 is \$5,718, and for fiscal year 2011 is \$5,703. These~~ 67381
~~respective amounts~~ years 2012 and 2013 is \$5,653. That amount 67382

shall be applied wherein sections 3326.31 to 3326.37 of the Revised Code the formula amount is specified, except for deducting and paying amounts for special education weighted funding and vocational education weighted funding.

(B) The base funding supplements under section 3317.012 of the Revised Code shall be deemed in each year to be the amounts specified in that section for fiscal year 2009. Accordingly, when computing the per-pupil base funding supplements for a STEM school under that section for fiscal years 2012 and 2013, the department of education shall substitute \$5,732 for the "formula amount" as used in divisions (C)(2), (3), and (4) of that section.

(C) Special education additional weighted funding shall be calculated by first grouping children with disabilities into the appropriate disability categories prescribed by section 3317.013 of the Revised Code as amended by H.B. 153 of the 129th general assembly, and then by multiplying the applicable weight respective multiple specified for fiscal year 2009 in that section ~~3317.013 of the Revised Code, as it existed for that fiscal year 2009,~~ times \$5,732.

(D) Vocational education additional weighted funding shall be calculated by multiplying the applicable weight specified in section 3317.014 of the Revised Code for fiscal year 2009 times \$5,732.

(E) The per pupil amounts paid to a school district under sections 3317.029 and 3317.0217 of the Revised Code shall be deemed to be the respective per pupil amounts paid under those sections to that district for fiscal year 2009.

Sec. 3327.02. (A) After considering each of the following factors, the board of education of a city, exempted village, or local school district may determine that it is impractical to transport a pupil who is eligible for transportation to and from a

school under section 3327.01 of the Revised Code:	67414
(1) The time and distance required to provide the transportation;	67415 67416
(2) The number of pupils to be transported;	67417
(3) The cost of providing transportation in terms of equipment, maintenance, personnel, and administration;	67418 67419
(4) Whether similar or equivalent service is provided to other pupils eligible for transportation;	67420 67421
(5) Whether and to what extent the additional service unavoidably disrupts current transportation schedules;	67422 67423
(6) Whether other reimbursable types of transportation are available.	67424 67425
(B)(1) Based on its consideration of the factors established in division (A) of this section, the board may pass a resolution declaring the impracticality of transportation. The resolution shall include each pupil's name and the reason for impracticality.	67426 67427 67428 67429
(2) The board shall report its determination to the state board of education in a manner determined by the state board.	67430 67431
(3) The board of education of a local school district additionally shall submit the resolution for concurrence to the educational service center that contains the local district's territory. If the educational service center governing board considers transportation by school conveyance practicable, it shall so inform the local board and transportation shall be provided by such local board. If the educational service center board agrees with the view of the local board, the local board may offer payment in lieu of transportation as provided in this section.	67432 67433 67434 67435 67436 67437 67438 67439 67440 67441
(C) After passing the resolution declaring the impracticality of transportation, the district board shall offer to provide	67442 67443

payment in lieu of transportation by doing the following: 67444

(1) In accordance with guidelines established by the 67445
department of education, informing the pupil's parent, guardian, 67446
or other person in charge of the pupil of both of the following: 67447

(a) The board's resolution; 67448

(b) The right of the pupil's parent, guardian, or other 67449
person in charge of the pupil to accept the offer of payment in 67450
lieu of transportation or to reject the offer and instead request 67451
the department to initiate mediation procedures. 67452

(2) Issuing the pupil's parent, guardian, or other person in 67453
charge of the pupil a contract or other form on which the parent, 67454
guardian, or other person in charge of the pupil is given the 67455
option to accept or reject the board's offer of payment in lieu of 67456
transportation. 67457

(D) If the parent, guardian, or other person in charge of the 67458
pupil accepts the offer of payment in lieu of providing 67459
transportation, the board shall pay the parent, guardian, or other 67460
person in charge of the ~~child~~ pupil an amount that shall be not 67461
less than the amount determined by the department of education as 67462
the minimum for payment in lieu of transportation, and not more 67463
than the amount determined by the department as the average cost 67464
of pupil transportation for the previous school year. Payment may 67465
be prorated if the time period involved is only a part of the 67466
school year. 67467

(E)(1)(a) Upon the request of a parent, guardian, or other 67468
person in charge of the pupil who rejected the payment in lieu of 67469
transportation, the department shall conduct mediation procedures. 67470

(b) If the mediation does not resolve the dispute, the state 67471
board of education shall conduct a hearing in accordance with 67472
Chapter 119. of the Revised Code. The state board may approve the 67473
payment in lieu of transportation or may order the board of 67474

education to provide transportation. The decision of the state board is binding in subsequent years and on future parties in interest provided the facts of the determination remain comparable.

(2) The school district shall provide transportation for the pupil from the time the parent, guardian, or other person in charge of the pupil requests mediation until the matter is resolved under division (E)(1)(a) or (b) of this section.

(F)(1) If the department determines that a school district board has failed or is failing to provide transportation as required by division (E)(2) of this section or as ordered by the state board under division (E)(1)(b) of this section, the department shall order the school district board to pay to the pupil's parent, guardian, or other person in charge of the pupil, an amount equal to the state average daily cost of transportation as determined by the state board of education for the previous year. The school district board shall make payments on a schedule ordered by the department.

(2) If the department subsequently finds that a school district board is not in compliance with an order issued under division (F)(1) of this section and the affected pupils are enrolled in a nonpublic or community school, the department shall deduct the amount that the board is required to pay under that order from any pupil transportation payments the department makes to the school district board under section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law. The department shall use the moneys so deducted to make payments to the nonpublic or community school attended by the pupil. The department shall continue to make the deductions and payments required under this division until the school district board either complies with the department's order issued under division (F)(1) of this section or begins providing transportation.

(G) A nonpublic or community school that receives payments 67507
from the department under division (F)(2) of this section shall do 67508
either of the following: 67509

(1) Disburse the entire amount of the payments to the parent, 67510
guardian, or other person in ~~control~~ charge of the pupil affected 67511
by the failure of the school district of residence to provide 67512
transportation; 67513

(2) Use the entire amount of the payments to provide 67514
acceptable transportation for the affected pupil. 67515

Sec. 3327.04. (A) The board of education of any city, 67516
exempted village, or local school district may contract with the 67517
board of another district for the admission or transportation, or 67518
both, of pupils into any school in such other district, on terms 67519
agreed upon by such boards. 67520

(B) The boards of two school districts may enter into a 67521
contract under this section to share the provision of 67522
transportation to a child who resides in one school district and 67523
attends school in the other district. Under such an agreement, one 67524
district may claim the total transportation subsidy available for 67525
such child under section ~~3306.12~~ 3317.0212 of the Revised Code or 67526
other provisions of law and may agree to pay any portion of such 67527
subsidy to the other district sharing the provision of 67528
transportation to that child. The contract shall delineate the 67529
transportation responsibilities of each district. 67530

A school district that enters into a contract under this 67531
section is not liable for any injury, death, or loss to the person 67532
or property of a student that may occur while the student is being 67533
furnished transportation by the other school district that is a 67534
party to the contract. 67535

(C) Whenever a board not maintaining a high school enters 67536

into an agreement with one or more boards maintaining such school 67537
for the schooling of all its high school pupils, the board making 67538
such agreement is exempt from the payment of tuition at other high 67539
schools of pupils living within three miles of the school 67540
designated in the agreement. In case no such agreement is entered 67541
into, the high school to be attended can be selected by the pupil 67542
holding an eighth grade diploma, and the tuition shall be paid by 67543
the board of the district of school residence. 67544

Sec. 3327.05. (A) Except as provided in division (B) of this 67545
section, no board of education of any school district shall 67546
provide transportation for any pupil who is a school resident of 67547
another school district unless the pupil is enrolled pursuant to 67548
section 3313.98 of the Revised Code or the board of the other 67549
district has given its written consent thereto. If the board of 67550
any school district files with the state board of education a 67551
written complaint that transportation for resident pupils is being 67552
provided by the board of another school district contrary to this 67553
division, the state board of education shall make an investigation 67554
of such complaint. If the state board of education finds that 67555
transportation is being provided contrary to this section, it may 67556
withdraw from state funds due the offending district any part of 67557
the amount that has been approved for transportation pursuant to 67558
section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions 67559
of law. 67560

(B) Notwithstanding division (D) of section 3311.19 and 67561
division (D) of section 3311.52 of the Revised Code, this division 67562
does not apply to any joint vocational or cooperative education 67563
school district. 67564

A board of education may provide transportation to and from 67565
the nonpublic school of attendance if both of the following apply: 67566

(1) The parent, guardian, or other person in charge of the 67567

pupil agrees to pay the board for all costs incurred in providing 67568
the transportation that are not reimbursed pursuant to Chapter 67569
~~3306.~~~~or~~ 3317. of the Revised Code; 67570

(2) The pupil's school district of residence does not provide 67571
transportation for public school pupils of the same grade as the 67572
pupil being transported under this division, or that district is 67573
not required under section 3327.01 of the Revised Code to 67574
transport the pupil to and from the nonpublic school because the 67575
direct travel time to the nonpublic school is more than thirty 67576
minutes. 67577

Upon receipt of the request to provide transportation, the 67578
board shall review the request and determine whether the board 67579
will accommodate the request. If the board agrees to transport the 67580
pupil, the board may transport the pupil to and from the nonpublic 67581
school and a collection point in the district, as determined by 67582
the board. If the board transports the pupil, the board may 67583
include the pupil in the district's transportation ADM reported to 67584
the department of education under section 3317.03 of the Revised 67585
Code and, accordingly, may receive a state payment under section 67586
~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law 67587
for transporting the pupil. 67588

If the board declines to transport the pupil, the board, in a 67589
written communication to the parent, guardian, or other person in 67590
charge of the pupil, shall state the reasons for declining the 67591
request. 67592

Sec. 3328.01. As used in this chapter: 67593

(A) "Child with a disability," "IEP," and "school district of 67594
residence" have the same meanings as in section 3323.01 of the 67595
Revised Code. 67596

(B) "Eligible student" means a student who is entitled to 67597

attend school in a participating school district; is at risk of 67598
academic failure; is from a family whose income is below two 67599
hundred per cent of the federal poverty guidelines, as defined in 67600
section 5101.46 of the Revised Code; meets any additional criteria 67601
prescribed by agreement between the state board of education and 67602
the operator of the college-preparatory boarding school in which 67603
the student seeks enrollment; and meets at least two of the 67604
following additional conditions: 67605

(1) The student has a record of in-school disciplinary 67606
actions, suspensions, expulsions, or truancy. 67607

(2) The student has not attained at least a proficient score 67608
on the state achievement assessments in English language arts, 67609
reading, or mathematics prescribed under section 3301.0710 of the 67610
Revised Code, after those assessments have been administered to 67611
the student at least once, or the student has not attained at 67612
least a score designated by the board of trustees of the 67613
college-preparatory boarding school in which the student seeks 67614
enrollment under this chapter on an end-of-course examination in 67615
English language arts or mathematics prescribed under section 67616
3301.0712 of the Revised Code. 67617

(3) The student is a child with a disability. 67618

(4) The student has been referred for academic intervention 67619
services. 67620

(5) The student's head of household is a single parent. As 67621
used in this division and in division (B)(6) of this section, 67622
"head of household" means a person who occupies the same household 67623
as the student and who is financially responsible for the student. 67624

(6) The student's head of household is not the student's 67625
custodial parent. 67626

(7) A member of the student's family has been imprisoned, as 67627
defined in section 1.05 of the Revised Code. 67628

(C) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code. 67629
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(D) "Formula ADM" and "category one through six special education ADM" have the same meanings as in section 3306.02 of the Revised Code. 67632
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(E) "Operator" means the operator of a college-preparatory boarding school selected under section 3328.11 of the Revised Code. 67635
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(F) "Participating school district" means either of the following: 67638
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(1) The school district in which a college-preparatory boarding school established under this chapter is located; 67640
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(2) A school district other than one described in division (F)(1) of this section that, pursuant to procedures adopted by the state board of education under section 3328.04 of the Revised Code, agrees to be a participating school district so that eligible students entitled to attend school in that district may enroll in a college-preparatory boarding school established under this chapter. 67642
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(G) "State education aid" has the same meaning as in section 3317.02 of the Revised Code. 67649
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Sec. 3328.02. Each college-preparatory boarding school established under this chapter is a public school and is part of the state's program of education, subject to a charter granted by the state board of education under section 3301.16 of the Revised Code. 67651
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Sec. 3328.03. In accordance with Section 22 of Article II, Ohio Constitution, no agreement or contract entered into under 67656
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this chapter shall create an obligation of state funds for a 67658
period longer than two years; however, the general assembly, every 67659
two years, may authorize renewal of any such obligation. 67660

Sec. 3328.04. The city, exempted village, or local school 67661
district in which a college-preparatory boarding school 67662
established under this chapter is located is a participating 67663
school district under this chapter. Any other city, exempted 67664
village, or local school district may agree to be a participating 67665
school district. The state board of education shall adopt 67666
procedures for districts to agree to be participating school 67667
districts. 67668

Sec. 3328.11. (A) In accordance with the procedures 67669
prescribed in division (B) of this section, the state board of 67670
education shall select a private nonprofit corporation that meets 67671
the following qualifications to operate each college-preparatory 67672
boarding school established under this chapter: 67673

(1) The corporation has experience operating a school or 67674
program similar to the schools authorized under this chapter. 67675

(2) The school or program described in division (A)(1) of 67676
this section has demonstrated to the satisfaction of the state 67677
board success in improving the academic performance of students. 67678

(3) The corporation has demonstrated to the satisfaction of 67679
the state board that the corporation has the capacity to secure 67680
private funds for the development of the school authorized under 67681
this chapter. 67682

(B)(1) Not later than sixty days after the effective date of 67683
this section, the state board shall issue a request for proposals 67684
from private nonprofit corporations qualified to operate a 67685
college-preparatory boarding school established under this 67686
chapter. If the state board subsequently determines that the 67687

establishment of one or more additional college-preparatory 67688
boarding schools is advisable, the state board shall issue 67689
requests for proposals from private nonprofit corporations 67690
qualified to operate those additional schools. 67691

In all cases, the state board shall select the school's 67692
operator from among the qualified responders within one hundred 67693
eighty days after the issuance of the request for proposals. If no 67694
qualified responder submits a proposal, the state board may issue 67695
another request for proposals. 67696

(2) Each proposal submitted to the state board shall contain 67697
the following information: 67698

(a) The proposed location of the college-preparatory boarding 67699
school, which may differ from any location recommended by the 67700
state board in the request for proposals; 67701

(b) A plan for offering grade six in the school's initial 67702
year of operation and a plan for increasing the grade levels 67703
offered by the school in subsequent years; 67704

(c) Any other information about the proposed educational 67705
program, facilities, or operations of the school considered 67706
necessary by the state board. 67707

Sec. 3328.12. The state board of education shall enter into a 67708
contract with the operator of each college-preparatory boarding 67709
school established under this chapter. The contract shall 67710
stipulate the following: 67711

(A) The school may operate only if and to the extent the 67712
school holds a valid charter granted by the state board under 67713
section 3301.16 of the Revised Code. 67714

(B) The operator shall oversee the acquisition of a facility 67715
for the school. 67716

(C) The operator shall operate the school in accordance with 67717

the terms of the proposal accepted by the state board under section 3328.11 of the Revised Code, including the plan for increasing the grade levels offered by the school. 67718
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(D) The school shall comply with the provisions of this chapter. 67721
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(E) The school shall comply with any other provisions of law specified in the contract, the charter granted by the state board, and the rules adopted by the state board under section 3328.50 of the Revised Code. 67723
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(F) The school shall comply with the bylaws adopted by the operator under section 3328.13 of the Revised Code. 67727
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(G) The school shall meet the academic goals and other performance standards specified in the contract. 67729
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(H) The state board or the operator may terminate the contract in accordance with the procedures specified in the contract, which shall include at least a requirement that the party seeking termination give prior notice of the intent to terminate the contract and a requirement that the party receiving such notice be granted an opportunity to redress any grievances cited in the notice prior to the termination. 67731
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(I) If the school closes for any reason, the school's board of trustees shall execute the closing in the manner specified in the contract. 67738
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Sec. 3328.13. Each operator of a college-preparatory boarding school established under this chapter shall adopt bylaws for the oversight and operation of the school that are consistent with the provisions of this chapter, the rules adopted under section 3328.50 of the Revised Code, the contract between the operator and the state board of education, and the charter granted to the school by the state board. The bylaws shall include procedures for 67741
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the appointment of members of the school's board of trustees, 67748
whose terms of office shall be as prescribed in section 3328.15 of 67749
the Revised Code. The bylaws also shall include standards for the 67750
admission of students to the school and their dismissal from the 67751
school. The bylaws shall be subject to the approval of the state 67752
board. 67753

Sec. 3328.14. Each operator of a college-preparatory boarding 67754
school established under this chapter shall adopt a program of 67755
outreach to inform every city, local, and exempted village school 67756
district about the school and the procedures for admission to the 67757
school and for becoming a participating school district. 67758

Sec. 3328.15. (A) Each college-preparatory boarding school 67759
established under this chapter shall be governed by a board of 67760
trustees consisting of up to twenty-five members. Five of those 67761
members shall be appointed by the governor, with the advice and 67762
consent of the senate. The governor's appointments may be based on 67763
nonbinding recommendations made by the superintendent of public 67764
instruction. The remaining members shall be appointed pursuant to 67765
the bylaws adopted under section 3328.13 of the Revised Code. 67766

(B) The terms of office of the initial members shall be as 67767
follows: 67768

(1) Two members appointed by the governor shall serve for an 67769
initial term of three years. 67770

(2) Two members appointed by the governor shall serve for an 67771
initial term of two years. 67772

(3) One member appointed by the governor shall serve for an 67773
initial term of one year. 67774

(4) One-third of the members appointed pursuant to the 67775
bylaws, rounded down to the nearest whole number, shall serve for 67776

an initial term of three years. 67777

(5) One-third of the members appointed pursuant to the bylaws, rounded down to the nearest whole number, shall serve for an initial term of two years. 67778
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(6) One-third of the members appointed pursuant to the bylaws, rounded down to the nearest whole number, shall serve for an initial term of one year. 67781
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(7) Any remaining members appointed pursuant to the bylaws shall serve for an initial term of one year. 67784
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Thereafter the terms of office of all members shall be for three years. 67786
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The beginning date and ending date of terms of office shall be as prescribed in the bylaws adopted under section 3328.13 of the Revised Code. 67788
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(C) Vacancies on the board shall be filled in the same manner as the initial appointments. A member appointed to an unexpired term shall serve for the remainder of that term and may be reappointed subject to division (D) of this section. 67791
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(D) No member may serve for more than three consecutive three-year terms. 67795
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(E) The officers of the board shall be selected by and from among the members of the board. 67797
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(F) Compensation for the members of the board, if any, shall be as prescribed in the bylaws adopted under section 3328.13 of the Revised Code. 67799
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Sec. 3328.17. Employees of a college-preparatory boarding school established under this chapter may organize and collectively bargain pursuant to Chapter 4117. of the Revised Code. Notwithstanding division (D)(1) of section 4117.06 of the 67802
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Revised Code, a unit containing teaching and nonteaching employees 67806
employed under this section may be considered an appropriate unit. 67807

Sec. 3328.18. (A) As used in this section, "license" has the 67808
same meaning as in section 3319.31 of the Revised Code. 67809

(B) If a person who is employed by a college-preparatory 67810
boarding school established under this chapter or its operator is 67811
arrested, summoned, or indicted for an alleged violation of an 67812
offense listed in division (C) of section 3319.31 of the Revised 67813
Code, if the person holds a license, or an offense listed in 67814
division (B)(1) of section 3319.39 of the Revised Code, if the 67815
person does not hold a license, the chief administrator of the 67816
school in which that person works shall suspend that person from 67817
all duties that require the care, custody, or control of a child 67818
during the pendency of the criminal action against the person. If 67819
the person who is arrested, summoned, or indicted for an alleged 67820
violation of an offense listed in division (C) of section 3319.31 67821
or division (B)(1) of section 3319.39 of the Revised Code is the 67822
chief administrator of the school, the board of trustees of the 67823
school shall suspend the chief administrator from all duties that 67824
require the care, custody, or control of a child. 67825

(C) When a person who holds a license is suspended in 67826
accordance with this section, the chief administrator or board 67827
that imposed the suspension promptly shall report the person's 67828
suspension to the department of education. The report shall 67829
include the offense for which the person was arrested, summoned, 67830
or indicted. 67831

Sec. 3328.19. (A) As used in this section: 67832

(1) "Conduct unbecoming to the teaching profession" shall be 67833
as described in rules adopted by the state board of education. 67834

(2) "Intervention in lieu of conviction" means intervention 67835

in lieu of conviction under section 2951.041 of the Revised Code. 67836

(3) "License" has the same meaning as in section 3319.31 of the Revised Code. 67837
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(4) "Pre-trial diversion program" means a pre-trial diversion program under section 2935.36 of the Revised Code or a similar diversion program under rules of a court. 67839
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(B) The chief administrator of each college-preparatory boarding school established under this chapter, or the president or chairperson of the board of trustees of the school if division (C) of this section applies, shall promptly submit to the superintendent of public instruction the information prescribed in division (D) of this section when any of the following conditions applies to a person employed to work in the school who holds a license issued by the state board of education: 67842
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(1) The chief administrator, or president or chairperson, knows that the employee has pleaded guilty to, has been found guilty by a jury or court of, has been convicted of, has been found to be eligible for intervention in lieu of conviction for, or has agreed to participate in a pre-trial diversion program for an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code. 67850
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(2) The board of trustees of the school, or the operator, has initiated termination or nonrenewal proceedings against, has terminated, or has not renewed the contract of the employee because the board or operator has reasonably determined that the employee has committed an act that is unbecoming to the teaching profession or an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code. 67857
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(3) The employee has resigned under threat of termination or nonrenewal as described in division (B)(2) of this section. 67865
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(4) The employee has resigned because of or in the course of an investigation by the board or operator regarding whether the employee has committed an act that is unbecoming to the teaching profession or an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code. 67867
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(C) If the employee to whom any of the conditions prescribed in divisions (B)(1) to (4) of this section applies is the chief administrator of the school, the president or chairperson of the board of trustees of the school shall make the report required under this section. 67873
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(D) If a report is required under this section, the chief administrator, or president or chairperson, shall submit to the superintendent of public instruction the name and social security number of the employee about whom the information is required and a factual statement regarding any of the conditions prescribed in divisions (B)(1) to (4) of this section that apply to the employee. 67878
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(E) A determination made by the board or operator as described in division (B)(2) of this section or a termination, nonrenewal, resignation, or other separation described in divisions (B)(2) to (4) of this section does not create a presumption of the commission or lack of the commission by the employee of an act unbecoming to the teaching profession or an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code. 67885
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(F) No individual required to submit a report under division (B) of this section shall knowingly fail to comply with that division. 67893
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(G) An individual who provides information to the superintendent of public instruction in accordance with this 67896
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section in good faith shall be immune from any civil liability 67898
that otherwise might be incurred or imposed for injury, death, or 67899
loss to person or property as a result of the provision of that 67900
information. 67901

Sec. 3328.191. The board of trustees of each 67902
college-preparatory boarding school established under this chapter 67903
shall require that the reports of any investigation by the board 67904
or by the school's operator of an employee who works in the 67905
school, regarding whether the employee has committed an act or 67906
offense for which the chief administrator of the school or the 67907
president or chairperson of the board is required to make a report 67908
to the superintendent of public instruction under section 3328.19 67909
of the Revised Code, be kept in the employee's personnel file. If, 67910
after an investigation under division (A) of section 3319.311 of 67911
the Revised Code, the superintendent of public instruction 67912
determines that the results of that investigation do not warrant 67913
initiating action under section 3319.31 of the Revised Code, the 67914
board shall require the reports of the investigation to be moved 67915
from the employee's personnel file to a separate public file. 67916

Sec. 3328.192. Notwithstanding any provision to the contrary 67917
in Chapter 4117. of the Revised Code, the provisions of sections 67918
3328.19 and 3328.191 of the Revised Code prevail over any 67919
conflicting provisions of a collective bargaining agreement or 67920
contract for employment entered into on or after the effective 67921
date of this section. 67922

Sec. 3328.193. (A) As used in this section, "license" has the 67923
same meaning as in section 3319.31 of the Revised Code. 67924

(B) No employee of a college-preparatory boarding school 67925
established under this chapter or its operator shall do either of 67926
the following: 67927

(1) Knowingly make a false report to the chief administrator of the school, or the chief administrator's designee, alleging misconduct by another employee of the school or its operator; 67928
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(2) Knowingly cause the chief administrator, or the chief administrator's designee, to make a false report of the alleged misconduct to the superintendent of public instruction or the state board of education. 67931
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(C) Any employee of a college-preparatory boarding school established under this chapter or its operator who in good faith reports to the chief administrator of the school, or the chief administrator's designee, information about alleged misconduct committed by another employee of the school or operator shall be immune from any civil liability that otherwise might be incurred or imposed for injury, death, or loss to person or property as a result of the reporting of that information. 67935
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If the alleged misconduct involves a person who holds a license but the chief administrator is not required to submit a report to the superintendent of public instruction under section 3328.19 of the Revised Code and the chief administrator, or the chief administrator's designee, in good faith reports the alleged misconduct to the superintendent of public instruction or the state board, the chief administrator, or the chief administrator's designee, shall be immune from any civil liability that otherwise might be incurred or imposed for injury, death, or loss to person or property as a result of the reporting of that information. 67943
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(D)(1) In any civil action brought against a person in which it is alleged and proved that the person violated division (B) of this section, the court shall award the prevailing party reasonable attorney's fees and costs that the prevailing party incurred in the civil action or as a result of the false report that was the basis of the violation. 67953
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(2) If a person is convicted of or pleads guilty to a violation of division (B) of this section, if the subject of the false report that was the basis of the violation was charged with any violation of a law or ordinance as a result of the false report, and if the subject of the false report is found not to be guilty of the charges brought against the subject as a result of the false report or those charges are dismissed, the court that sentences the person for the violation of division (B) of this section, as part of the sentence, shall order the person to pay restitution to the subject of the false report, in an amount equal to reasonable attorney's fees and costs that the subject of the false report incurred as a result of or in relation to the charges.

Sec. 3328.20. (A) As used in this section:

(1) "Designated official" means the chief administrator of a college-preparatory boarding school established under this chapter, or the chief administrator's designee.

(2) "Essential school services" means services provided by a private company under contract with a college-preparatory boarding school established under this chapter that the chief administrator of the school has determined are necessary for the operation of the school and that would need to be provided by persons employed by the school or its operator if the services were not provided by the private company.

(3) "License" has the same meaning as in section 3319.31 of the Revised Code.

(B) This section applies to any person who is an employee of a private company under contract with a college-preparatory boarding school established under this chapter to provide essential school services and who will work in the school in a position that does not require a license issued by the state board

of education, is not for the operation of a vehicle for pupil transportation, and that involves routine interaction with a child or regular responsibility for the care, custody, or control of a child. 67990
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(C) No college-preparatory boarding school established under this chapter shall permit a person to whom this section applies to work in the school, unless one of the following applies to the person: 67994
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(1) The person's employer presents proof of both of the following to the designated official: 67998
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(a) That the person has been the subject of a criminal records check conducted in accordance with division (D) of this section within the five-year period immediately prior to the date on which the person will begin working in the school; 68000
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(b) That the criminal records check indicates that the person has not been convicted of or pleaded guilty to any offense described in division (B)(1) of section 3319.39 of the Revised Code. 68004
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(2) During any period of time in which the person will have routine interaction with a child or regular responsibility for the care, custody, or control of a child, the designated official has arranged for an employee of the school to be present in the same room with the child or, if outdoors, to be within a thirty-yard radius of the child or to have visual contact with the child. 68008
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(D) Any private company that has been hired or seeks to be hired by a college-preparatory boarding school established under this chapter to provide essential school services may request the bureau of criminal identification and investigation to conduct a criminal records check of any of its employees for the purpose of complying with division (C)(1) of this section. Each request for a criminal records check under this division shall be made to the 68014
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superintendent of the bureau in the manner prescribed in section 68021
3319.39 of the Revised Code. Upon receipt of a request, the bureau 68022
shall conduct the criminal records check in accordance with 68023
section 109.572 of the Revised Code as if the request had been 68024
made under section 3319.39 of the Revised Code. 68025

Notwithstanding division (H) of section 109.57 of the Revised 68026
Code, the private company may share the results of any criminal 68027
records check conducted under this division with the designated 68028
official for the purpose of complying with division (C)(1) of this 68029
section, but in no case shall the designated official release that 68030
information to any other person. 68031

Sec. 3328.21. (A) Any eligible student may apply for 68032
admission to a college-preparatory boarding school established 68033
under this chapter in a grade level offered by the school that is 68034
appropriate for the student and shall be admitted to the school in 68035
that grade level to the extent the student's admission is within 68036
the capacity of the school as established by the school's board of 68037
trustees, subject to division (B) of this section. If more 68038
eligible students apply for admission than the number of students 68039
permitted by the capacity established by the board of trustees, 68040
admission shall be by lot. 68041

(B) In the first year of operation, each school established 68042
under this chapter shall offer only grade six and shall not admit 68043
more than eighty students to the school. In each subsequent year 68044
of operation, the school may add additional grade levels as 68045
specified in the contract under section 3328.12 of the Revised 68046
Code, but at no time shall the school's total student population 68047
exceed four hundred students. 68048

Sec. 3328.22. The educational program of a 68049
college-preparatory boarding school established under this chapter 68050

shall include at least all of the following: 68051

(A) A remedial curriculum for students in grades lower than grade nine; 68052
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(B) A college-preparatory curriculum for high school students that, at a minimum, shall comply with section 3313.603 of the Revised Code as that section applies to school districts; 68054
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(C) Extracurricular activities, including athletic and cultural activities; 68057
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(D) College admission counseling; 68059

(E) Health and mental health services; 68060

(F) Tutoring services; 68061

(G) Community services opportunities; 68062

(H) A residential student life program. 68063

Sec. 3328.23. (A) A college-preparatory boarding school established under this chapter and the school's operator shall comply with Chapter 3323. of the Revised Code as if the school were a school district. For each child with a disability enrolled in the school for whom an IEP has been developed, the school and its operator shall verify in the manner prescribed by the department of education that the school is providing the services required under the child's IEP. 68064
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(B) The school district in which a child with a disability enrolled in the college-preparatory boarding school is entitled to attend school and the child's school district of residence, if different, are not obligated to provide the student with a free appropriate public education under Chapter 3323. of the Revised Code for as long as the child is enrolled in the college-preparatory boarding school. 68072
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Sec. 3328.24. A college-preparatory boarding school 68079
established under this chapter, its operator, and its board of 68080
trustees shall comply with sections 3301.0710, 3301.0711, 68081
3301.0712, 3301.0714, 3319.39, and 3319.391 of the Revised Code as 68082
if the school and the operator were a school district and the 68083
school's board of trustees were a district board of education. 68084

Sec. 3328.25. (A) The board of trustees of a 68085
college-preparatory boarding school established under this chapter 68086
shall grant a diploma to any student enrolled in the school to 68087
whom all of the following apply: 68088

(1) The student has successfully completed the school's high 68089
school curriculum or the IEP developed for the student by the 68090
school pursuant to section 3323.08 of the Revised Code or has 68091
qualified under division (D) or (F) of section 3313.603 of the 68092
Revised Code, provided that the school shall not require a student 68093
to remain in school for any specific number of semesters or other 68094
terms if the student completes the required curriculum early. 68095

(2) Subject to section 3313.614 of the Revised Code, the 68096
student has met the assessment requirements of division (A)(2)(a) 68097
or (b) of this section, as applicable. 68098

(a) If the student entered ninth grade prior to the date 68099
prescribed by rule of the state board of education under division 68100
(D)(2) of section 3301.0712 of the Revised Code, the student 68101
either: 68102

(i) Has attained at least the applicable scores designated 68103
under division (B)(1) of section 3301.0710 of the Revised Code on 68104
all the assessments prescribed by that division unless division 68105
(L) of section 3313.61 of the Revised Code applies to the student; 68106

(ii) Has satisfied the alternative conditions prescribed in 68107
section 3313.615 of the Revised Code. 68108

(b) If the person entered ninth grade on or after the date prescribed by rule of the state board under division (D)(2) of section 3301.0712 of the Revised Code, the student has met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code, except to the extent that the student is excused from some portion of that assessment system pursuant to division (L) of section 3313.61 of the Revised Code. 68109
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(3) The student is not eligible to receive an honors diploma granted under division (B) of this section. 68117
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No diploma shall be granted under this division to anyone except as provided in this division. 68119
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(B) In lieu of a diploma granted under division (A) of this section, the board of trustees shall grant an honors diploma, in the same manner that boards of education of school districts grant honors diplomas under division (B) of section 3313.61 of the Revised Code, to any student enrolled in the school who accomplishes all of the following: 68121
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(1) Successfully completes the school's high school curriculum or the IEP developed for the student by the school pursuant to section 3323.08 of the Revised Code; 68127
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(2) Subject to section 3313.614 of the Revised Code, has met the assessment requirements of division (B)(2)(a) or (b) of this section, as applicable. 68130
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(a) If the student entered ninth grade prior to the date prescribed by rule of the state board under division (D)(2) of section 3301.0712 of the Revised Code, the student either: 68133
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(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments prescribed under that division; 68136
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(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code. 68139
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(b) If the person entered ninth grade on or after the date prescribed by rule of the state board under division (D)(2) of section 3301.0712 of the Revised Code, the student has met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code. 68141
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(3) Has met the additional criteria for granting an honors diploma prescribed by the state board under division (B) of section 3313.61 of the Revised Code for the granting of honors diplomas by school districts. 68146
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An honors diploma shall not be granted to a student who is subject to the Ohio core curriculum prescribed in division (C) of section 3313.603 of the Revised Code but elects the option of division (D) or (F) of that section. No honors diploma shall be granted to anyone failing to comply with this division, and not more than one honors diploma shall be granted to any student under this division. 68150
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(C) A diploma or honors diploma awarded under this section shall be signed by the presiding officer of the board of trustees. Each diploma shall bear the date of its issue and be in such form as the board of trustees prescribes. 68157
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(D) Upon granting a diploma to a student under this section, the presiding officer of the board of trustees shall provide notice of receipt of the diploma to the board of education of the city, exempted village, or local school district where the student is entitled to attend school when not residing at the college-preparatory boarding school. The notice shall indicate the type of diploma granted. 68161
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Sec. 3328.26. (A) The department of education shall issue an 68168

annual report card for each college-preparatory boarding school 68169
established under this chapter that includes all information 68170
applicable to school buildings under section 3302.03 of the 68171
Revised Code. 68172

(B) For each student enrolled in the school, the department 68173
shall combine data regarding the academic performance of that 68174
student with comparable data from the school district in which the 68175
student is entitled to attend school for the purpose of 68176
calculating the performance of the district as a whole on the 68177
report card issued for the district under section 3302.03 of the 68178
Revised Code. 68179

(C) Each college-preparatory boarding school and its operator 68180
shall comply with sections 3302.04 and 3302.041 of the Revised 68181
Code, except that any action required to be taken by a school 68182
district pursuant to those sections shall be taken by the school. 68183

Sec. 3328.31. Each college-preparatory boarding school 68184
established under this chapter shall report to the department of 68185
education, in the form and manner prescribed by the department, 68186
the following information: 68187

(A) The total number of students enrolled in the school; 68188

(B) The number of students enrolled in the school who are 68189
receiving special education and related services pursuant to an 68190
IEP; 68191

(C) The city, exempted village, or local school district in 68192
which each student reported under division (A) of this section is 68193
entitled to attend school; 68194

(D) Any additional information the department determines 68195
necessary to make payments to the school under this chapter. 68196

Sec. 3328.32. The city, exempted village, or local school 68197

district in which each child enrolled in a college-preparatory 68198
boarding school established under this chapter is entitled to 68199
attend school shall count that child in the district's average 68200
daily membership and in the district's category one through six 68201
special education ADM, as appropriate, as reported under divisions 68202
(A) and (B)(5) to (10) of section 3317.03 of the Revised Code. 68203

The department of education shall count that child in the 68204
district's formula ADM. 68205

Sec. 3328.33. For each child enrolled in a 68206
college-preparatory boarding school, as reported under section 68207
3328.31 of the Revised Code, the department of education shall 68208
deduct from the state education aid and, if necessary, from the 68209
payment under sections 321.24 and 323.156 of the Revised Code, for 68210
the city, exempted village, or local school district in which the 68211
child is entitled to attend school an amount equal to eighty-five 68212
per cent of the operating expenditure per pupil of that district. 68213

As used in this section, a district's "operating expenditure 68214
per pupil" is the total amount of state payments and other 68215
nonfederal revenue spent by the district for operating expenses 68216
during the previous fiscal year, divided by the district's formula 68217
ADM for the previous fiscal year. 68218

Sec. 3328.34. (A) For each child enrolled in a 68219
college-preparatory boarding school, as reported under section 68220
3328.31 of the Revised Code, the department of education shall pay 68221
to the school the sum of the amount deducted from a participating 68222
school district's account for that child under section 3328.33 of 68223
the Revised Code plus the per-pupil boarding amount specified in 68224
division (B) of this section. 68225

(B) For the first fiscal year in which a college-preparatory 68226
boarding school may be established under this chapter, the 68227

"per-pupil boarding amount" is twenty-five thousand dollars. For each fiscal year thereafter, that amount shall be adjusted by the rate of inflation, as measured by the consumer price index (all urban consumers, all items) prepared by the bureau of labor statistics of the United States department of labor, for the previous twelve-month period.

(C) The state board of education may accept funds from federal and state noneducation support services programs for the purpose of funding the per pupil boarding amount prescribed in division (B) of this section. Notwithstanding any other provision of the Revised Code, the state board shall coordinate and streamline any noneducation program requirements in order to eliminate redundant or conflicting requirements, licensing provisions, and oversight by government programs or agencies. The applicable regulatory entities shall, to the maximum extent possible, use independent reports and financial audits provided by the operator and coordinated by the department of education to eliminate or reduce contract and administrative reviews. Regulatory entities other than the state board may suggest reasonable additional items to be included in such independent reports and financial audits to meet any requirements of federal law. Reporting paperwork prepared for the state board shall be shared with and accepted by other state and local entities to the maximum extent feasible.

(D)(1) Notwithstanding division (A) of this section, if, in any fiscal year, the operator of a college-preparatory boarding school receives federal funds for the purpose of supporting the school's operations, the amount of those federal funds shall be deducted from the total per-pupil boarding amount for all enrolled students paid by the department to the school for that fiscal year, unless the operator and the department determine otherwise in a written agreement. Any portion of the total per-pupil

boarding amount for all enrolled students remaining after the 68260
deduction of the federal funds shall be paid by the department to 68261
the school from state funds appropriated to the department. 68262

(2) Notwithstanding division (A) of this section, if, in any 68263
fiscal year, the department receives federal funds for the purpose 68264
of supporting the operations of a college-preparatory boarding 68265
school, the department shall use those federal funds first to pay 68266
the school the total per-pupil boarding amount for all enrolled 68267
students for that fiscal year. Any portion of the total per-pupil 68268
boarding amount for all enrolled students remaining after the use 68269
of the federal funds shall be paid by the department to the school 68270
from state funds appropriated to the department. 68271

(3) If any federal funds are used for the purpose prescribed 68272
in division (D)(1) or (2) of this section, the department shall 68273
comply with all requirements upon which the acceptance of the 68274
federal funds is conditioned, including any requirements set forth 68275
in the funding application submitted by the operator or the 68276
department and, to the extent sufficient funds are appropriated by 68277
the general assembly, any requirements regarding maintenance of 68278
effort in expenditures. 68279

Sec. 3328.35. To the extent permitted by federal law, the 68280
department of education shall include college-preparatory boarding 68281
schools established under this chapter in its annual allocation of 68282
federal moneys under Title I of the "Elementary and Secondary 68283
Education Act of 1965," 20 U.S.C. 6301, et seq. The department may 68284
apply for any other federal moneys that may be used to support the 68285
operations of college-preparatory boarding schools established 68286
under this chapter. 68287

Sec. 3328.36. A college-preparatory boarding school 68288
established under this chapter shall be considered a school 68289

district and its board of trustees, on behalf of the school's 68290
operator, shall be considered a board of education for the purpose 68291
of applying to any state or federal agency for grants that a 68292
school district or public school may receive under federal or 68293
state law or any appropriations act of the general assembly. The 68294
college-preparatory boarding school and its operator may apply to 68295
any private entity to receive and accept funds. 68296

Sec. 3328.41. Each participating school district shall be 68297
responsible for providing transportation on a weekly basis for 68298
each student enrolled in a college-preparatory boarding school 68299
established under this chapter who is entitled to attend school in 68300
the district to and from that college-preparatory boarding school. 68301

Sec. 3328.45. (A) If the state board of education determines 68302
that a college-preparatory boarding school established under this 68303
chapter is not in compliance with any provision of this chapter or 68304
the terms of the contract entered into under section 3328.12 of 68305
the Revised Code, or that the school has failed to meet the 68306
academic goals or performance standards specified in that 68307
contract, the state board may initiate the termination procedures 68308
specified in the contract. No termination shall take effect prior 68309
to the end of a school year. Upon the effective date of a 68310
termination, the school shall close. 68311

(B) If a college-preparatory boarding school is required to 68312
close under division (A) of this section or closes for any other 68313
reason, the school's board of trustees shall execute the closing 68314
as provided in the contract under section 3328.12 of the Revised 68315
Code. 68316

Sec. 3328.50. The state board of education shall adopt rules 68317
in accordance with Chapter 119. of the Revised Code prescribing 68318

procedures necessary for the implementation of this chapter. 68319

Sec. 3328.99. (A) Whoever violates division (F) of section 3328.19 of the Revised Code shall be punished as follows: 68320
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(1) Except as otherwise provided in division (A)(2) of this section, the person is guilty of a misdemeanor of the fourth degree. 68322
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(2) The person is guilty of a misdemeanor of the first degree if both of the following conditions apply: 68325
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(a) The employee who is the subject of the report that the person fails to submit was required to be reported for the commission or alleged commission of an act or offense involving the infliction on a child of any physical or mental wound, injury, disability, or condition of a nature that constitutes abuse or neglect of the child. 68327
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(b) During the period between the violation of division (F) of section 3328.19 of the Revised Code and the conviction of or plea of guilty by the person for that violation, the employee who is the subject of the report that the person fails to submit inflicts on any child attending a school district, educational service center, public or nonpublic school, or county board of developmental disabilities where the employee works any physical or mental wound, injury, disability, or condition of a nature that constitutes abuse or neglect of the child. 68333
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(B) Whoever violates division (B) of section 3328.193 of the Revised Code is guilty of a misdemeanor of the first degree. 68342
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Sec. 3329.08. At any regular meeting, the board of education of each local school district, from lists adopted by the educational service center governing board, and the board of education of each city, and exempted village school district 68344
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shall determine by a majority vote of all members elected or 68348
appointed under division (B) or (F) of section 3311.71 of the 68349
Revised Code which of such textbooks or electronic textbooks so 68350
filed shall be used in the schools under its control. 68351

Sec. 3331.01. (A) As used in this chapter: 68352

(1) "Superintendent" or "superintendent of schools" of a 68353
school district means the person employed as the superintendent or 68354
that person's designee. ~~In the case of a local school district,~~ 68355
~~such designee may be the superintendent of the educational service~~ 68356
~~center to which the school district belongs.~~ 68357

(2) "Chief administrative officer" means the chief 68358
administrative officer of a nonpublic or community school or that 68359
person's designee. 68360

(B)(1) Except as provided in division (B)(2) of this section, 68361
an age and schooling certificate may be issued only by the 68362
superintendent of the city, local, joint vocational, or exempted 68363
village school district in which the child in whose name such 68364
certificate is issued resides or by the chief administrative 68365
officer of the nonpublic or community school the child attends, 68366
and only upon satisfactory proof that the child to whom the 68367
certificate is issued is at least fourteen years of age. 68368

(2) A child who resides in this state shall apply for an age 68369
and schooling certificate to the superintendent of the school 68370
district in which the child resides, or to the chief 68371
administrative officer of the school that the child attends. 68372
Residents of other states who work in Ohio shall apply to the 68373
superintendent of the school district in which the place of 68374
employment is located, as a condition of employment or service. 68375

(C) Any such age and schooling certificate may be issued only 68376
upon satisfactory proof that the employment contemplated by the 68377

child is not prohibited by any law regulating the employment of 68378
such children. Section 4113.08 of the Revised Code does not apply 68379
to such employer in respect to such child while engaged in an 68380
employment legal for a child of the age stated therein. 68381

(D) Age and schooling certificate forms shall be approved by 68382
the state board of education, including forms submitted 68383
electronically. Forms shall not display the social security number 68384
of the child. Except as otherwise provided in this section, every 68385
application for an age and schooling certificate must be signed in 68386
the presence of the officer issuing it by the child in whose name 68387
it is issued. 68388

(E) A child shall furnish the superintendent or chief 68389
administrative officer all information required by this chapter in 68390
support of the issuance of a certificate. 68391

(F) On and after September 1, 2002, each superintendent and 68392
chief administrative officer who issues an age and schooling 68393
certificate shall file electronically the certificate with the 68394
director of commerce in accordance with rules adopted by the 68395
director of administrative services pursuant to section 1306.21 of 68396
the Revised Code. On and after September 1, 2002, only 68397
electronically filed certificates are valid to satisfy the 68398
requirements of Chapter 4109. of the Revised Code. 68399

Sec. 3333.03. (A) The governor, with the advice and consent 68400
of the senate, shall appoint the chancellor of the Ohio board of 68401
regents. ~~The governor may remove the chancellor in accordance with~~ 68402
~~section 3.04 of the Revised Code, except that the removal shall~~ 68403
~~not require the advice and consent of the senate. The chancellor~~ 68404
~~shall serve at the pleasure of the governor, and the governor~~ 68405
shall prescribe the chancellor's duties in addition to the 68406
chancellor's duties prescribed by law. ~~In no case shall the~~ 68407
~~chancellor assume any duties prescribed by the governor or law~~ 68408

~~until the senate has consented to the chancellor's appointment.~~ 68409
The governor shall fix the compensation for the chancellor. The 68410
chancellor shall be a member of the governor's cabinet. 68411

~~(B) The term of office of the chancellor shall be five years.~~ 68412
~~Any person appointed chancellor to fill a vacancy occurring prior~~ 68413
~~to the expiration of the term for which the predecessor was~~ 68414
~~appointed shall hold office for the remainder of that term. Any~~ 68415
~~vacancy in the office shall be filled within sixty days after the~~ 68416
~~vacancy occurs. Each chancellor shall continue in office~~ 68417
~~subsequent to the expiration date of the term for which the~~ 68418
~~chancellor was appointed until a successor takes office, or until~~ 68419
~~a period of sixty days has elapsed, whichever occurs first. The~~ 68420
~~chancellor may be reappointed. The term of the chancellor in~~ 68421
~~office on the effective date of this amendment shall coincide with~~ 68422
~~the term of that chancellor's appointing governor. Subsequent~~ 68423
~~appointments to the office of chancellor shall be made pursuant to~~ 68424
~~division (A) of this section.~~ 68425

(C) The chancellor is responsible for appointing and fixing 68426
the compensation of all professional, administrative, and clerical 68427
employees and staff members necessary to assist in the performance 68428
of the chancellor's duties. All employees and staff shall serve at 68429
the chancellor's pleasure. 68430

(D) The chancellor shall be a person qualified by training 68431
and experience to understand the problems and needs of the state 68432
in the field of higher education and to devise programs, plans, 68433
and methods of solving the problems and meeting the needs. 68434

(E) Neither the chancellor nor any staff member or employee 68435
of the chancellor shall be a trustee, officer, or employee of any 68436
public or private college or university while serving as 68437
chancellor, staff member, or employee. 68438

Sec. 3333.043. (A) As used in this section: 68439

(1) "Institution of higher education" means the state 68440
universities listed in section 3345.011 of the Revised Code, 68441
municipal educational institutions established under Chapter 3349. 68442
of the Revised Code, community colleges established under Chapter 68443
3354. of the Revised Code, university branches established under 68444
Chapter 3355. of the Revised Code, technical colleges established 68445
under Chapter 3357. of the Revised Code, state community colleges 68446
established under Chapter 3358. of the Revised Code, any 68447
institution of higher education with a certificate of registration 68448
from the state board of career colleges and schools, and any 68449
institution for which the chancellor of the Ohio board of regents 68450
receives a notice pursuant to division (C) of this section. 68451

(2) "Community service" has the same meaning as in section 68452
3313.605 of the Revised Code. 68453

(B)(1) The board of trustees or other governing entity of 68454
each institution of higher education shall encourage and promote 68455
participation of students in community service through a program 68456
appropriate to the mission, student population, and environment of 68457
each institution. The program may include, but not be limited to, 68458
providing information about community service opportunities during 68459
student orientation or in student publications; providing awards 68460
for exemplary community service; encouraging faculty members to 68461
incorporate community service into students' academic experiences 68462
wherever appropriate to the curriculum; encouraging recognized 68463
student organizations to undertake community service projects as 68464
part of their purposes; and establishing advisory committees of 68465
students, faculty members, and community and business leaders to 68466
develop cooperative programs that benefit the community and 68467
enhance student experience. The program shall be flexible in 68468
design so as to permit participation by the greatest possible 68469
number of students, including part-time students and students for 68470
whom participation may be difficult due to financial, academic, 68471

personal, or other considerations. The program shall emphasize 68472
community service opportunities that can most effectively use the 68473
skills of students, such as tutoring or literacy programs. The 68474
programs shall encourage students to perform services that will 68475
not supplant the hiring of, result in the displacement of, or 68476
impair any existing employment contracts of any particular 68477
employee of any private or governmental entity for which services 68478
are performed. 68479

(2) The chancellor of the Ohio board of regents shall 68480
encourage all institutions of higher education in the development 68481
of community service programs. With the assistance of the Ohio 68482
~~community~~ commission on service council and volunteerism created 68483
in section 121.40 of the Revised Code, the chancellor shall make 68484
available information about higher education community service 68485
programs to institutions of higher education and to statewide 68486
organizations involved with or promoting volunteerism, including 68487
information about model community service programs, teacher 68488
training courses, and community service curricula and teaching 68489
materials for possible use by institutions of higher education in 68490
their programs. The chancellor shall encourage institutions of 68491
higher education to jointly coordinate higher education community 68492
service programs through consortia of institutions or other 68493
appropriate means of coordination. 68494

(C) The board of trustees of any nonprofit institution with a 68495
certificate of authorization issued pursuant to Chapter 1713. of 68496
the Revised Code or the governing authority of a private 68497
institution exempt from regulation under Chapter 3332. of the 68498
Revised Code as prescribed in section 3333.046 of the Revised Code 68499
may notify the chancellor that it is making itself subject to 68500
divisions (A) and (B) of this section. Upon receipt of such a 68501
notice, these divisions shall apply to that institution. 68502

Sec. 3333.0411. Not later than December 31, 2012, and 68503
annually thereafter, the chancellor of the Ohio board of regents 68504
shall report aggregate academic growth data for students assigned 68505
to graduates of teacher preparation programs approved under 68506
section 3333.048 of the Revised Code who teach English language 68507
arts or mathematics in any of grades four to eight in a public 68508
school in Ohio. For this purpose, the chancellor shall use the 68509
value-added progress dimension prescribed by section 3302.021 of 68510
the Revised Code. The chancellor shall aggregate the data by 68511
graduating class for each approved teacher preparation program, 68512
except that if a particular class has ten or fewer graduates to 68513
which this section applies, the chancellor shall report the data 68514
for a group of classes over a three-year period. In no case shall 68515
the report identify any individual graduate. The department of 68516
education shall share any data necessary for the report with the 68517
chancellor. 68518

Sec. 3333.31. (A) For state subsidy and tuition surcharge 68519
purposes, status as a resident of Ohio shall be defined by the 68520
chancellor of the Ohio board of regents by rule promulgated 68521
pursuant to Chapter 119. of the Revised Code. No adjudication as 68522
to the status of any person under such rule, however, shall be 68523
required to be made pursuant to Chapter 119. of the Revised Code. 68524
The term "resident" for these purposes shall not be equated with 68525
the definition of that term as it is employed elsewhere under the 68526
laws of this state and other states, and shall not carry with it 68527
any of the legal connotations appurtenant thereto. Rather, except 68528
as provided in ~~division~~ divisions (B) and (D) of this section, for 68529
such purposes, the rule promulgated under this section shall have 68530
the objective of excluding from treatment as residents those who 68531
are present in the state primarily for the purpose of attending a 68532
state-supported or state-assisted institution of higher education, 68533

and may prescribe presumptive rules, rebuttable or conclusive, as 68534
to such purpose based upon the source or sources of support of the 68535
student, residence prior to first enrollment, evidence of 68536
intention to remain in the state after completion of studies, or 68537
such other factors as the chancellor deems relevant. 68538

(B) The rules of the chancellor for determining student 68539
residency shall grant residency status to a veteran and to the 68540
veteran's spouse and any dependent of the veteran, if both of the 68541
following conditions are met: 68542

(1) The veteran either: 68543

(a) Served one or more years on active military duty and was 68544
honorably discharged or received a medical discharge that was 68545
related to the military service; 68546

(b) Was killed while serving on active military duty or has 68547
been declared to be missing in action or a prisoner of war. 68548

(2) If the veteran seeks residency status for tuition 68549
surcharge purposes, the veteran has established domicile in this 68550
state as of the first day of a term of enrollment in an 68551
institution of higher education. If the spouse or a dependent of 68552
the veteran seeks residency status for tuition surcharge purposes, 68553
the veteran and the spouse or dependent seeking residency status 68554
have established domicile in this state as of the first day of a 68555
term of enrollment in an institution of higher education, except 68556
that if the veteran was killed while serving on active military 68557
duty or has been declared to be missing in action or a prisoner of 68558
war, only the spouse or dependent seeking residency status shall 68559
be required to have established domicile in accordance with this 68560
division. 68561

(C) The rules of the chancellor for determining student 68562
residency shall not deny residency status to a student who is 68563
either a dependent child of a parent, or the spouse of a person 68564

who, as of the first day of a term of enrollment in an institution 68565
of higher education, has accepted full-time employment and 68566
established domicile in this state for reasons other than gaining 68567
the benefit of favorable tuition rates. 68568

Documentation of full-time employment and domicile shall 68569
include both of the following documents: 68570

(1) A sworn statement from the employer or the employer's 68571
representative on the letterhead of the employer or the employer's 68572
representative certifying that the parent or spouse of the student 68573
is employed full-time in Ohio; 68574

(2) A copy of the lease under which the parent or spouse is 68575
the lessee and occupant of rented residential property in the 68576
state, a copy of the closing statement on residential real 68577
property of which the parent or spouse is the owner and occupant 68578
in this state or, if the parent or spouse is not the lessee or 68579
owner of the residence in which the parent or spouse has 68580
established domicile, a letter from the owner of the residence 68581
certifying that the parent or spouse resides at that residence. 68582

Residency officers may also evaluate, in accordance with the 68583
chancellor's rule, requests for immediate residency status from 68584
dependent students whose parents are not living and whose domicile 68585
follows that of a legal guardian who has accepted full-time 68586
employment and established domicile in the state for reasons other 68587
than gaining the benefit of favorable tuition rates. 68588

(D)(1) The rules of the chancellor for determining student 68589
residency shall grant residency status to a person who, while a 68590
resident of this state for state subsidy and tuition surcharge 68591
purposes, graduated from a high school in this state, if the 68592
person enrolls in an institution of higher education and 68593
establishes domicile in this state within ten years after 68594
graduating from high school, regardless of the student's residence 68595

prior to that enrollment. 68596

(2) The rules of the chancellor for determining student 68597
residency shall not grant residency status to an alien if the 68598
alien is not also an immigrant or a nonimmigrant. 68599

(E) As used in this section: 68600

(1) "Dependent," "domicile," "institution of higher 68601
education," and "residency officer" have the meanings ascribed in 68602
the chancellor's rules adopted under this section. 68603

(2) "Alien" means a person who is not a United States citizen 68604
or a United States national. 68605

(3) "Immigrant" means an alien who has been granted the right 68606
by the United States bureau of citizenship and immigration 68607
services to reside permanently in the United States and to work 68608
without restrictions in the United States. 68609

(4) "Nonimmigrant" means an alien who has been granted the 68610
right by the United States bureau of citizenship and immigration 68611
services to reside temporarily in the United States. 68612

Sec. 3333.38. (A) As used in this section: 68613

(1) "Institution of higher education" includes all of the 68614
following: 68615

(a) A state institution of higher education, as defined in 68616
section 3345.011 of the Revised Code; 68617

(b) A nonprofit institution issued a certificate of 68618
authorization under Chapter 1713. of the Revised Code; 68619

(c) A private institution exempt from regulation under 68620
Chapter 3332. of the Revised Code, as prescribed in section 68621
3333.046 of the Revised Code; 68622

(d) An institution of higher education with a certificate of 68623
registration from the state board of career colleges and schools 68624

under Chapter 3332. of the Revised Code. 68625

(2) "Student financial assistance supported by state funds" 68626
includes assistance granted under sections 3315.33, 3333.12, 68627
3333.122, 3333.21, 3333.26, 3333.28, 3333.372, 3333.391, 3333.93, 68628
5910.03, 5910.032, and 5919.34 of the Revised Code, financed by an 68629
award under the choose Ohio first scholarship program established 68630
under section 3333.61 of the Revised Code, or financed by an award 68631
under the Ohio co-op/internship program established under section 68632
3333.72 of the Revised Code, and any other post-secondary student 68633
financial assistance supported by state funds. 68634

(B) An individual who is convicted of, pleads guilty to, or 68635
is adjudicated a delinquent child for one of the following 68636
violations shall be ineligible to receive any student financial 68637
assistance supported by state funds at an institution of higher 68638
education for two calendar years from the time the individual 68639
applies for assistance of that nature: 68640

(1) A violation of section 2917.02 or 2917.03 of the Revised 68641
Code; 68642

(2) A violation of section 2917.04 of the Revised Code that 68643
is a misdemeanor of the fourth degree; 68644

(3) A violation of section 2917.13 of the Revised Code that 68645
is a misdemeanor of the fourth or first degree and occurs within 68646
the proximate area where four or more others are acting in a 68647
course of conduct in violation of section 2917.11 of the Revised 68648
Code. 68649

(C) If an individual is convicted of, pleads guilty to, or is 68650
adjudicated a delinquent child for committing a violation of 68651
section 2917.02 or 2917.03 of the Revised Code, and if the 68652
individual is enrolled in a state-supported institution of higher 68653
education, the institution in which the individual is enrolled 68654
shall immediately dismiss the individual. No state-supported 68655

institution of higher education shall admit an individual of that 68656
nature for one academic year after the individual applies for 68657
admission to a state-supported institution of higher education. 68658
This division does not limit or affect the ability of a 68659
state-supported institution of higher education to suspend or 68660
otherwise discipline its students. 68661

Sec. 3333.43. This section does not apply to any 68662
baccalaureate degree program that is a cooperative education 68663
program, as defined in section 3333.71 of the Revised Code. 68664

(A) The chancellor of the Ohio board of regents shall require 68665
all state institutions of higher education that offer 68666
baccalaureate degrees, as a condition of reauthorization for 68667
certification of each baccalaureate program offered by the 68668
institution, to submit a statement describing how each major for 68669
which the school offers a baccalaureate degree may be completed 68670
within three academic years. The chronology of the statement shall 68671
begin with the fall semester of a student's first year of the 68672
baccalaureate program. 68673

(B) The statement required under this section may include, 68674
but not be limited to, any of the following methods to contribute 68675
to earning a baccalaureate degree in three years: 68676

(1) Advanced placement credit; 68677

(2) International baccalaureate program credit; 68678

(3) A waiver of degree and credit-hour requirements by 68679
completion of courses that are widely available at community 68680
colleges in the state or through online programs offered by state 68681
institutions of higher education or private nonprofit institutions 68682
of higher education holding certificates of authorization under 68683
Chapter 1713. of the Revised Code, and through courses taken by 68684
the student through the post-secondary enrollment options program 68685

under Chapter 3365. of the Revised Code; 68686

(4) Completion of coursework during summer sessions; 68687

(5) A waiver of foreign-language degree requirements based on a proficiency examination specified by the institution. 68688
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(C)(1) Not later than October 15, 2012, each state institution of higher education shall provide statements required under this section for ten per cent of all baccalaureate degree programs offered by the institution. 68690
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(2) Not later than June 30, 2014, each state institution of higher education shall provide statements required under this section for sixty per cent of all baccalaureate degree programs offered by the institution. 68694
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(D) Each state institution of higher education required to submit statements under this section shall post its three-year option on its web site and also provide that information to the department of education. The department shall distribute that information to the superintendent, high school principal, and guidance counselor, or equivalents, of each school district, community school established under Chapter 3314. of the Revised Code, and STEM school established under Chapter 3326. of the Revised Code. 68698
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(E) Nothing in this section requires an institution to take any action that would violate the requirements of any independent association accrediting baccalaureate degree programs. 68707
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Sec. 3333.66. (A)(1) Except as provided in division (A)(2) of this section, in each academic year, no student who receives a choose Ohio first scholarship shall receive less than one thousand five hundred dollars or more than one-half of the highest in-state undergraduate instructional and general fees charged by all state universities. For this purpose, if Miami university is 68710
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implementing the pilot tuition restructuring plan originally 68716
recognized in Am. Sub. H.B. 95 of the 125th general assembly, that 68717
university's instructional and general fees shall be considered to 68718
be the average full-time in-state undergraduate instructional and 68719
general fee amount after taking into account the Ohio resident and 68720
Ohio leader scholarships and any other credit provided to all Ohio 68721
residents. 68722

(2) The chancellor of the Ohio board of regents may authorize 68723
a state university or college or a nonpublic Ohio institution of 68724
higher education to award a choose Ohio first scholarship in an 68725
amount greater than one-half of the highest in-state undergraduate 68726
instructional and general fees charged by all state universities 68727
to either of the following: 68728

(a) Any undergraduate student who qualifies for a scholarship 68729
and is enrolled in a program leading to a teaching profession in 68730
science, technology, engineering, mathematics, or medicine; 68731

(b) Any graduate student who qualifies for a scholarship, if 68732
any initiatives are selected for award under division (B) of this 68733
section. 68734

(B) The chancellor shall encourage state universities and 68735
colleges, alone or in collaboration with other state institutions 68736
of higher education, nonpublic Ohio universities and colleges, or 68737
other public or private Ohio entities, to submit proposals under 68738
the choose Ohio first scholarship program for initiatives that 68739
recruit either of the following: 68740

(1) Ohio residents who enrolled in colleges and universities 68741
in other states or other countries to return to Ohio and enroll in 68742
state universities or colleges as graduate students in the fields 68743
of science, technology, engineering, mathematics, and medicine, or 68744
in the fields of science, technology, engineering, mathematics, or 68745
medical education. If such proposals are submitted and meet the 68746

chancellor's competitive criteria for awards, the chancellor, 68747
subject to approval by the controlling board, shall give at least 68748
one of the proposals preference for an award. 68749

(2) Graduates, or undergraduates who will graduate in time to 68750
participate in the program described in this division by the 68751
subsequent school year, from an Ohio college or university who 68752
received, or will receive, a degree in science, technology, 68753
engineering, mathematics, or medicine to participate in a 68754
graduate-level teacher education masters program in one of those 68755
fields that requires the student to establish a domicile in the 68756
state and to commit to teach for a minimum of three years in a 68757
hard-to-staff school district in the state upon completion of the 68758
master's degree program. The chancellor may require a college or 68759
university to give priority to qualified candidates who graduated 68760
from a high school in this state. 68761

"Hard-to-staff" shall be as defined by the department of 68762
education. 68763

(C) The general assembly intends that money appropriated for 68764
the choose Ohio first scholarship program in each fiscal year be 68765
used for scholarships in the following academic year. 68766

Sec. 3333.81. As used in sections 3333.81 to 3333.88 of the 68767
Revised Code: 68768

(A) "Clearinghouse" means the clearinghouse established under 68769
section 3333.82 of the Revised Code. 68770

(B) "Community school" means a community school established 68771
under Chapter 3314. of the Revised Code. 68772

(C) "Common statewide platform" means a software program that 68773
facilitates the delivery of courses via computers from multiple 68774
course providers to multiple end users, tracks the progress of the 68775
end user, and includes an integrated searchable database of 68776

standards-based course content. 68777

(D) "Course provider" means a school district, community 68778
school, STEM school, state institution of higher education, 68779
private college or university, or nonprofit or for-profit private 68780
entity that creates or is an agent of the creator of original 68781
course content for a course offered through the clearinghouse. 68782

(E) "Instructor" means an individual who holds a license 68783
issued by the state board of education, as defined in section 68784
3319.31 of the Revised Code, or an individual employed as an 68785
instructor or professor by a state institution of higher education 68786
or a private college or university. 68787

(F) "State institution of higher education" has the same 68788
meaning as in section 3345.011 of the Revised Code. 68789

(G) "STEM school" means a science, technology, engineering, 68790
and mathematics school established under Chapter 3326. of the 68791
Revised Code. 68792

(H) A "student's community school" means the community school 68793
in which the student is enrolled instead of being enrolled in a 68794
school operated by a school district. 68795

(I) A "student's school district" means the school district 68796
operating the school in which the student is lawfully enrolled. 68797

(J) "A student's STEM school" means the STEM school in which 68798
the student is enrolled instead of being enrolled in a school 68799
operated by a school district. 68800

(K) "School district" means a city, exempted village, local, 68801
or joint vocational school district. 68802

Sec. 3333.82. (A) The chancellor of the Ohio board of regents 68803
shall establish a clearinghouse of interactive distance learning 68804
courses and other distance learning courses delivered via a 68805
computer-based method offered by school districts, community 68806

schools, STEM schools, state institutions of higher education, 68807
private colleges and universities, and other nonprofit and 68808
for-profit course providers for sharing with other school 68809
districts, community schools, STEM schools, state institutions of 68810
higher education, private colleges and universities, and 68811
individuals for the fee set pursuant to section 3333.84 of the 68812
Revised Code. The chancellor shall not be responsible for the 68813
content of courses offered through the clearinghouse; however, all 68814
such courses shall be delivered only in accordance with technical 68815
specifications approved by the chancellor and on a common 68816
statewide platform administered by the chancellor. 68817

The clearinghouse's distance learning program for students in 68818
grades kindergarten to twelve shall be based on the following 68819
principles: 68820

(1) All Ohio students shall have access to high quality 68821
distance learning courses at any point in their educational 68822
careers. 68823

(2) All students shall be able to customize their education 68824
using distance learning courses offered through the clearinghouse 68825
and no student shall be denied access to any course in the 68826
clearinghouse in which the student is eligible to enroll. 68827

(3) Students may take distance learning courses for all or 68828
any portion of their curriculum requirements and may utilize a 68829
combination of distance learning courses and courses taught in a 68830
traditional classroom setting. 68831

(4) Students may earn an unlimited number of academic credits 68832
through distance learning courses. 68833

(5) Students may take distance learning courses at any time 68834
of the calendar year. 68835

(6) Student advancement to higher coursework shall be based 68836
on a demonstration of subject area competency instead of 68837

completion of any particular number of hours of instruction. 68838

(B) To offer a course through the clearinghouse, a course 68839
provider shall apply to the chancellor in a form and manner 68840
prescribed by the chancellor. The application for each course 68841
shall describe the course of study in as much detail as required 68842
by the chancellor, whether an instructor is provided, the 68843
qualification and credentials of the instructor, the number of 68844
hours of instruction, and any other information required by the 68845
chancellor. The chancellor may require course providers to include 68846
in their applications information recommended by the state board 68847
of education under former section 3353.30 of the Revised Code. 68848

(C) The chancellor shall review the technical specifications 68849
of each application submitted under division (B) of this section. 68850
In reviewing applications, the chancellor may consult with the 68851
department of education; however, the responsibility to either 68852
approve or not approve a course for the clearinghouse belongs to 68853
the chancellor. The chancellor may request additional information 68854
from a course provider that submits an application under division 68855
(B) of this section, if the chancellor determines that such 68856
information is necessary. The chancellor may negotiate changes in 68857
the proposal to offer a course, if the chancellor determines that 68858
changes are necessary in order to approve the course. 68859

(D) The chancellor shall catalog each course approved for the 68860
clearinghouse, through a print or electronic medium, displaying 68861
the following: 68862

(1) Information necessary for a student and the student's 68863
parent, guardian, or custodian and the student's school district, 68864
community school, STEM school, college, or university to decide 68865
whether to enroll in or subscribe to the course; 68866

(2) Instructions for enrolling in that course, including 68867
deadlines for enrollment. 68868

(E) Any expenses related to the installation of a course into the common statewide platform shall be borne by the course provider. 68869
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~~(F) The chancellor may contract with an entity to perform any or all of the chancellor's duties under sections 3333.81 to 3333.88 of the Revised Code. The eTech Ohio commission, in consultation with the chancellor and the state board, shall distribute information to students and parents describing the clearinghouse. The information shall be provided in an easily understandable format.~~ 68872
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Sec. 3333.83. ~~(A) A student who is enrolled in a school operated by a school district or in a community school or STEM school may enroll in a course through the clearinghouse only if both of the following conditions are satisfied:~~ 68879
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~~(1) The student's enrollment in the course is approved by the student's school district, community school, or STEM school.~~ 68883
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~~(2) The student's school district, community school, or STEM school agrees to accept for credit the grade assigned by the course provider, if that provider is another school district, community school, or STEM school. Each school district, community school, and STEM school shall encourage students to take advantage of the distance learning opportunities offered through the clearinghouse and shall assist any student electing to participate in the clearinghouse with the selection and scheduling of courses that satisfy the district's or school's curriculum requirements and promote the student's post-secondary college or career plans.~~ 68885
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(B) For each student enrolled in a school operated by a school district or in a community school or STEM school who is enrolling in a course provided through the clearinghouse by another school district, community school, or STEM school, the student's school district, community school, or STEM school shall 68895
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transmit the student's name to the course provider. 68900

The course provider may request from the student's school 68901
district, community school, or STEM school other information from 68902
the student's school record. The district or school shall provide 68903
the requested information only in accordance with section 3319.321 68904
of the Revised Code. 68905

(C) The student's school district, community school, or STEM 68906
school shall determine the manner in which and facilities at which 68907
the student shall participate in the course consistent with 68908
specifications for technology and connectivity adopted by the 68909
chancellor of the Ohio board of regents. 68910

(D) A student may withdraw from a course prior to the end of 68911
the course only by a date and in a manner prescribed by the 68912
student's school district, community school, or STEM school. 68913

(E) A student who is enrolled in a school operated by a 68914
school district or in a community school or STEM school and who 68915
takes a course through the clearinghouse shall be counted in the 68916
formula ADM of a school district under section 3317.03 of the 68917
Revised Code as if the student were taking the course from the 68918
student's school district, community school, or STEM school. 68919

Sec. 3333.84. (A) The fee charged for any course offered 68920
through the clearinghouse shall be set by the course provider. 68921

(B) The chancellor of the Ohio board of regents shall 68922
prescribe the manner in which the fee for a course shall be 68923
collected or deducted from the school district, school, college or 68924
university, or individual subscribing to the course and in which 68925
manner the fee shall be paid to the course provider. 68926

(C) The chancellor may retain a percentage of the fee charged 68927
for a course to offset the cost of maintaining and operating the 68928
clearinghouse, including the payment of compensation for an entity 68929

or a private entity that is under contract with the chancellor 68930
under division (F) of section 3333.82 of the Revised Code. The 68931
percentage retained shall be determined by the chancellor. 68932

(D) Nothing in this section shall be construed to require the 68933
school district, community school, or STEM school in which a 68934
student is enrolled to pay the fee charged for a course taken by 68935
the student. 68936

Sec. 3333.85. (A) The grade for a student enrolled in a 68937
school operated by a school district or in a community school or 68938
STEM school for a course provided through the clearinghouse by 68939
another school district, community school, or STEM school shall be 68940
assigned by the course provider and shall be transmitted to the 68941
student's school district, community school, or STEM school. 68942

(B) The district or school enrolling the student shall award 68943
the student credit for successful completion of the course. The 68944
credit awarded shall be equivalent to any credit that would be 68945
granted for successful completion of a similar course offered by 68946
the district or school. 68947

(C) No district or school shall prohibit or otherwise limit 68948
any student's access to or participation in courses offered 68949
through the clearinghouse, or refuse to recognize such courses as 68950
fulfilling curriculum requirements, including the requirements for 68951
a high school diploma under section 3313.603 of the Revised Code. 68952

Sec. 3333.87. The chancellor of the Ohio board of regents and 68953
the state board of education jointly, and in consultation with the 68954
director of the governor's office of 21st century education, shall 68955
adopt rules in accordance with Chapter 119. of the Revised Code 68956
prescribing procedures for the implementation of sections 3333.81 68957
to 3333.86 of the Revised Code. 68958

Sec. 3333.90. (A) As used in this section:	68959
(1) "Allocated state share of instruction" means, for any fiscal year, the amount of the state share of instruction appropriated to the Ohio board of regents by the general assembly that is allocated to a community or technical college or community or technical college district for such fiscal year.	68960 68961 68962 68963 68964
(2) " Authority <u>Issuing authority</u> " means the Ohio building authority <u>has the same meaning as in section 154.01 of the Revised Code.</u>	68965 68966 68967
(3) "Bond service charges" has the same meaning as in section 152.09 <u>154.01</u> of the Revised Code.	68968 68969
(4) "Chancellor" means the chancellor of the Ohio board of regents.	68970 68971
(5) "Community or technical college" or "college" means any of the following state-supported or state-assisted institutions of higher education:	68972 68973 68974
(a) A community college as defined in section 3354.01 of the Revised Code;	68975 68976
(b) A technical college as defined in section 3357.01 of the Revised Code;	68977 68978
(c) A state community college as defined in section 3358.01 of the Revised Code.	68979 68980
(6) "Community or technical college district" or "district" means any of the following institutions of higher education that are state-supported or state-assisted:	68981 68982 68983
(a) A community college district as defined in section 3354.01 of the Revised Code;	68984 68985
(b) A technical college district as defined in section 3357.01 of the Revised Code;	68986 68987

(c) A state community college district as defined in section 3358.01 of the Revised Code. 68988
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(7) "Credit enhancement facilities" has the same meaning as in section 133.01 of the Revised Code. 68990
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(8) "Obligations" has the meaning as in section ~~152.09~~ 154.01 or 3345.12 of the Revised Code, as the context requires. 68992
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(B) The board of trustees of any community or technical college district authorizing the issuance of obligations under section 3354.12, 3354.121, 3357.11, 3357.112, or 3358.10 of the Revised Code, or for whose benefit and on whose behalf the issuing authority proposes to issue obligations under ~~division (C) of~~ section ~~152.09~~ 154.25 of the Revised Code, may adopt a resolution requesting the chancellor to enter into an agreement with the community or technical college district and the primary paying agent or fiscal agent for such obligations, providing for the withholding and deposit of funds otherwise due the district or the community or technical college it operates in respect of its allocated state share of instruction, for the payment of bond service charges on such obligations. 68994
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The board of trustees shall deliver to the chancellor a copy of the resolution and any additional pertinent information the chancellor may require. 69007
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The chancellor and the office of budget and management, and the issuing authority in the case of obligations to be issued by the issuing authority, shall evaluate each request received from a community or technical college district under this section. The chancellor, with the advice and consent of the director of budget and management and the issuing authority in the case of obligations to be issued by the issuing authority, shall approve each request if all of the following conditions are met: 69010
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(1) Approval of the request will enhance the marketability of 69018

the obligations for which the request is made; 69019

(2) The chancellor and the office of budget and management, 69020
and the issuing authority in the case of obligations to be issued 69021
by the issuing authority, have no reason to believe the requesting 69022
community or technical college district or the community or 69023
technical college it operates will be unable to pay when due the 69024
bond service charges on the obligations for which the request is 69025
made, and bond service charges on those obligations are therefore 69026
not anticipated to be paid pursuant to this section from the 69027
allocated state share of instruction for purposes of Section 17 of 69028
Article VIII, Ohio Constitution. 69029

(3) Any other pertinent conditions established in rules 69030
adopted under division (H) of this section. 69031

(C) If the chancellor approves the request of a community or 69032
technical college district to withhold and deposit funds pursuant 69033
to this section, the chancellor shall enter into a written 69034
agreement with the district and the primary paying agent or fiscal 69035
agent for the obligations, which agreement shall provide for the 69036
withholding of funds pursuant to this section for the payment of 69037
bond service charges on those obligations. The agreement may also 69038
include both of the following: 69039

(1) Provisions for certification by the district to the 69040
chancellor, prior to the deadline for payment of the applicable 69041
bond service charges, whether the district and the community or 69042
technical college it operates are able to pay those bond service 69043
charges when due; 69044

(2) Requirements that the district or the community or 69045
technical college it operates deposits amounts for the payment of 69046
those bond service charges with the primary paying agent or fiscal 69047
agent for the obligations prior to the date on which the bond 69048
service charges are due to the owners or holders of the 69049

obligations. 69050

(D) Whenever a district or the community or technical college 69051
it operates notifies the chancellor that it will not be able to 69052
pay the bond service charges when they are due, subject to the 69053
withholding provisions of this section, or whenever the applicable 69054
paying agent or fiscal agent notifies the chancellor that it has 69055
not timely received from a district or from the college it 69056
operates the full amount needed for payment of the bond service 69057
charges when due to the holders or owners of such obligations, the 69058
chancellor shall immediately contact the district or college and 69059
the paying agent or fiscal agent to confirm that the district and 69060
the college are not able to make the required payment by the date 69061
on which it is due. 69062

If the chancellor confirms that the district and the college 69063
are not able to make the payment and the payment will not be made 69064
pursuant to a credit enhancement facility, the chancellor shall 69065
promptly pay to the applicable primary paying agent or fiscal 69066
agent the lesser of the amount due for bond service charges or the 69067
amount of the next periodic distribution scheduled to be made to 69068
the district or to the college in respect of its allocated state 69069
share of instruction. If this amount is insufficient to pay the 69070
total amount then due the agent for the payment of bond service 69071
charges, the chancellor shall continue to pay to the agent from 69072
each periodic distribution thereafter, and until the full amount 69073
due the agent for unpaid bond service charges is paid in full, the 69074
lesser of the remaining amount due the agent for bond service 69075
charges or the amount of the next periodic distribution scheduled 69076
to be made to the district or college in respect of its allocated 69077
state share of instruction. 69078

(E) The chancellor may make any payments under this section 69079
by direct deposit of funds by electronic transfer. 69080

Any amount received by a paying agent or fiscal agent under 69081

this section shall be applied only to the payment of bond service 69082
charges on the obligations of the community or technical college 69083
district or community or technical college subject to this section 69084
or to the reimbursement of the provider of a credit enhancement 69085
facility that has paid the bond service charges. 69086

(F) The chancellor may make payments under this section to 69087
paying agents or fiscal agents during any fiscal biennium of the 69088
state only from and to the extent that money is appropriated to 69089
the board of regents by the general assembly for distribution 69090
during such biennium for the state share of instruction and only 69091
to the extent that a portion of the state share of instruction has 69092
been allocated to the community or technical college district or 69093
community or technical college. Obligations of the issuing 69094
authority or of a community or technical college district to which 69095
this section is made applicable do not constitute an obligation or 69096
a debt or a pledge of the faith, credit, or taxing power of the 69097
state, and the holders or owners of those obligations have no 69098
right to have excises or taxes levied or appropriations made by 69099
the general assembly for the payment of bond service charges on 69100
the obligations, and the obligations shall contain a statement to 69101
that effect. The agreement for or the actual withholding and 69102
payment of money under this section does not constitute the 69103
assumption by the state of any debt of a community or technical 69104
college district or a community or technical college, and bond 69105
service charges on the related obligations are not anticipated to 69106
be paid from the state general revenue fund for purposes of 69107
Section 17 of Article VIII, Ohio Constitution. 69108

(G) In the case of obligations subject to the withholding 69109
provisions of this section, the issuing community or technical 69110
college district, or the issuing authority in the case of 69111
obligations issued by the issuing authority, shall appoint a 69112
paying agent or fiscal agent who is not an officer or employee of 69113

the district or college. 69114

(H) The chancellor, with the advice and consent of the office 69115
of budget and management, may adopt reasonable rules not 69116
inconsistent with this section for the implementation of this 69117
section to secure payment of bond service charges on obligations 69118
issued by a community or technical college district or by the 69119
issuing authority for the benefit of a community or technical 69120
college district or the community or technical college it 69121
operates. Those rules shall include criteria for the evaluation 69122
and approval or denial of community or technical college district 69123
requests for withholding under this section. 69124

(I) The authority granted by this section is in addition to 69125
and not a limitation on any other authorizations granted by or 69126
pursuant to law for the same or similar purposes. 69127

Sec. 3333.93. (A) The Ohio out-of-state tuition surcharge 69128
forgiveness program is hereby created. The chancellor of the Ohio 69129
board of regents shall defer payment of the out-of-state tuition 69130
surcharge for nonresident undergraduate and graduate students 69131
enrolled in a state institution of higher education who qualify 69132
for the program. In order to receive such a deferment, nonresident 69133
students must commit to living and working in the state for five 69134
years after receiving a degree from a state institution of higher 69135
education. For each year a deferment recipient lives and works in 69136
Ohio, a percentage of the total amount of out-of-state tuition 69137
owed by the recipient shall be forgiven until the end of the fifth 69138
year of employment and residency in the state after graduation, at 69139
which time the remaining amount owed shall be forgiven under 69140
division (C) of section 3333.94 of the Revised Code. 69141

(B) The chancellor shall adopt rules in accordance with 69142
Chapter 119. of the Revised Code to establish and administer the 69143
program. Such rules shall include, but not be limited to, all of 69144

<u>the following:</u>	69145
<u>(1) Student eligibility to receive a deferment, and any academic requirements to continue receiving the deferment;</u>	69146
<u>(2) An application, selection, and award process for deferments;</u>	69148
<u>(3) A process for accounting for the amount of out-of-state tuition owed by the deferment recipient, calculated in conjunction with state institutions of higher education;</u>	69149
<u>(4) The maximum amount of out-of-state tuition surcharges a recipient may defer;</u>	69150
<u>(5) A procedure for recipients who transfer to other state institutions of higher education;</u>	69151
<u>(6) Conditions under which a deferment shall be canceled.</u>	69152
<u>The chancellor shall require that all applicants to the deferment program shall file a statement of selective service status in compliance with section 3345.32 of the Revised Code, if applicable, and that all applicants have not been convicted of, plead guilty to, or adjudicated a delinquent child for any violation listed in section 3333.38 of the Revised Code.</u>	69153
<u>(C)(1) Tuition surcharge deferment recipients shall reside and work in the state for not less than five years immediately subsequent to receiving a degree from a state institution of higher education.</u>	69154
<u>(2) If a student who receives a deferral under this section as an undergraduate enrolls in a graduate program at a state institution of higher education in the academic year subsequent to graduation, division (C)(1) of this section shall not apply until the student graduates from the graduate program in which that student is enrolled.</u>	69155
<u>(D) The board of trustees of any state institution of higher</u>	69156

education may do either of the following: 69175

(1) Limit the number of nonresident students enrolled in that state institution who may participate in the program established in this section; 69176
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(2) Establish eligibility standards for students enrolled in that state institution to qualify for and to continue participating in the program established under this section. 69179
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Sec. 3333.94. (A) Each recipient who accepts an out-of-state tuition surcharge payment deferment under section 3333.93 of the Revised Code, or the recipient's parent if the recipient is younger than eighteen years of age, shall sign a promissory note payable to the state in the event the recipient does not satisfy the requirements of division (C) of section 3333.93 of the Revised Code or the deferment is terminated. The amount payable under the note shall be the amount of deferred total out-of-state tuition surcharge accrued by the recipient. The period of repayment under the note shall be determined by the chancellor of the Ohio board of regents. The note shall stipulate that the obligation to make payments under the note is canceled after the recipient has lived and worked in the state for five years after graduation in accordance with division (C) of section 3333.93 of the Revised Code, or if the recipient dies or becomes totally and permanently disabled. 69182
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(B) Repayment of the principal amount of the deferred surcharge and interest accrued shall be deferred while the recipient is enrolled in a state institution of higher education, while the recipient is seeking employment to fulfill the employment obligation, for a period not to exceed six months, or while the recipient lives and works in the state. 69198
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(C) During the five-year period following the recipient's graduation from a state institution of higher education, the 69204
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chancellor shall deduct from the outstanding balance that may be 69206
converted to a loan an amount as follows at the end of each year 69207
the recipient lives and works in the state: 69208

(1) Ten per cent of the total amount deferred, at the end of 69209
the first year of employment and residence after graduation; 69210

(2) Twenty per cent of the total amount deferred, at the end 69211
of the second year of employment and residence; 69212

(3) Thirty per cent of the total amount deferred, at the end 69213
of the third year of employment and residence after graduation; 69214

(4) Fifty per cent of the total amount deferred, at the end 69215
of the fourth year of employment and residence after graduation; 69216

(5) One hundred per cent of the total amount deferred, at the 69217
end of the fifth year of employment and residence after 69218
graduation. 69219

(D) The chancellor may terminate the deferment in accordance 69220
with the rules adopted under section 3333.93 of the Revised Code, 69221
in which case the amount deferred shall be converted to a loan to 69222
be repaid under division (A) of this section. 69223

(E) Except as provided in division (B)(5) of section 3333.93 69224
of the Revised Code, the deferment shall be deemed terminated upon 69225
the recipient's withdrawal from school or the recipient's failure 69226
to meet the standards of the deferment, as determined by the 69227
chancellor or the state institution of higher education from which 69228
the recipient received a degree, and shall be converted to a loan 69229
to be repaid under division (A) of this section. 69230

(F) The chancellor and the attorney general shall collect 69231
payments on the converted loan in accordance with section 131.02 69232
of the Revised Code. 69233

Sec. 3334.19. (A) The Ohio tuition trust authority shall 69234
adopt an investment plan that sets forth investment policies and 69235

guidelines to be utilized in administering the variable college 69236
savings program and investment options offered by the authority. 69237
The investment options shall include a default option to benefit 69238
contributors who are first-time investors or have low to moderate 69239
incomes. Except as provided in section 3334.20 of the Revised 69240
Code, the authority shall contract with one or more insurance 69241
companies, banks, or other financial institutions to act as its 69242
investment agents and to provide such services as the authority 69243
considers appropriate to the investment plan, including: 69244

(1) Purchase, control, and safekeeping of assets; 69245

(2) Record keeping and accounting for individual accounts and 69246
for the program as a whole; 69247

(3) Provision of consolidated statements of account. 69248

(B) The authority or its investment agents shall maintain a 69249
separate account for the beneficiary of each contract entered into 69250
under the variable college savings program. If a beneficiary has 69251
more than one such account, the authority or its agents shall 69252
track total contributions and earnings and provide a consolidated 69253
system of account distributions to institutions of higher 69254
education. 69255

(C) The authority or its investment agents may place assets 69256
of the program in savings accounts and may purchase fixed or 69257
variable life insurance or annuity contracts, securities, evidence 69258
of indebtedness, or other investment products pursuant to the 69259
investment plan. 69260

(D) Contributors shall not direct the investment of their 69261
contributions under the investment plan. The authority shall 69262
impose other limits on contributors' investment discretion to the 69263
extent required under section 529 of the Internal Revenue Code. 69264

(E) The investment agents with which the authority contracts 69265
shall discharge their duties with respect to program funds with 69266

the care and diligence that a prudent person familiar with such 69267
matters and with the character and aims of the program would use. 69268

(F) The assets of the program shall be preserved, invested, 69269
and expended solely for the purposes of this chapter and shall not 69270
be loaned or otherwise transferred or used by the state for any 69271
other purpose. This section shall not be construed to prohibit the 69272
investment agents of the authority from investing, by purchase or 69273
otherwise, in bonds, notes, or other obligations of the state or 69274
any agency or instrumentality of the state. Unless otherwise 69275
specified by the authority, assets of the program shall be 69276
expended in the following order of priority: 69277

(1) To make payments on behalf of beneficiaries; 69278

(2) To make refunds upon termination of variable college 69279
savings program contracts; 69280

(3) To pay the authority's costs of administering the 69281
program; 69282

(4) To pay or cover any other expenditure or disbursement the 69283
authority determines necessary or appropriate. 69284

(G) Fees, charges, and other costs imposed or collected by 69285
the authority in connection with the variable college savings 69286
program, including any fees or other payments that the authority 69287
requires an investment agent to pay to the authority, shall be 69288
credited to either the variable operating fund or the index 69289
operating fund at the discretion of the authority. These funds are 69290
hereby created in the state treasury. Expenses incurred in the 69291
administration of the variable college savings program, as well as 69292
other expenses, disbursements, or payments the authority considers 69293
appropriate for the benefit of any college savings programs 69294
administered by the authority, the state of Ohio and its citizens, 69295
shall be paid from the variable operating fund or the index 69296
operating fund at the discretion of the authority. 69297

(H) No records of the authority indicating the identity of purchasers, contributors, and beneficiaries under the program or amounts contributed to, earned by, or distributed from program accounts are public records within the meaning of section 149.43 of the Revised Code.

Sec. 3345.023. (A) No state institution of higher education shall take any action or enforce any policy that would deny a religious student group any benefit available to any other student group based on the religious student group's requirement that its leaders or members adhere to its sincerely held religious beliefs or standards of conduct.

(B) As used in this section:

(1) "Benefits" include, without limitation:

(a) Recognition;

(b) Registration;

(c) The use of facilities of the state institution of higher education for meetings or speaking purposes, subject to section 3345.021 of the Revised Code;

(d) The use of channels of communication of the state institution of higher education;

(e) Funding sources that are otherwise available to any other student group in the state institution of higher education.

(2) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

Sec. 3345.061. (A) Ohio's two-year institutions of higher education are respected points of entry for students embarking on post-secondary careers and courses completed at those institutions are transferable to state universities in accordance with articulation and transfer agreements developed under sections

3333.16, 3333.161, and 3333.162 of the Revised Code. 69327

(B) Beginning with undergraduate students who commence 69328
undergraduate studies in the 2014-2015 academic year, no state 69329
university listed in section 3345.011 of the Revised Code, except 69330
Central state university, Shawnee state university, and Youngstown 69331
state university, shall receive any state operating subsidies for 69332
any academic remedial or developmental courses for undergraduate 69333
students, including courses prescribed in the Ohio core curriculum 69334
for high school graduation under division (C) of section 3313.603 69335
of the Revised Code, offered at its main campus, except as 69336
provided in divisions (B)(1) to (4) of this section. 69337

(1) In the 2014-2015 and 2015-2016 academic years, a state 69338
university may receive state operating subsidies for academic 69339
remedial or developmental courses for not more than three per cent 69340
of the total undergraduate credit hours provided by the university 69341
at its main campus. 69342

(2) In the 2016-2017 academic year, a state university may 69343
receive state operating subsidies for academic remedial or 69344
developmental courses for not more than fifteen per cent of the 69345
first-year students who have graduated from high school within the 69346
previous twelve months and who are enrolled in the university at 69347
its main campus, as calculated on a full-time-equivalent basis. 69348

(3) In the 2017-2018 academic year, a state university may 69349
receive state operating subsidies for academic remedial or 69350
developmental courses for not more than ten per cent of the 69351
first-year students who have graduated from high school within the 69352
previous twelve months and who are enrolled in the university at 69353
its main campus, as calculated on a full-time-equivalent basis. 69354

(4) In the 2018-2019 academic year, a state university may 69355
receive state operating subsidies for academic remedial or 69356
developmental courses for not more than five per cent of the 69357

first-year students who have graduated from high school within the 69358
previous twelve months and who are enrolled in the university at 69359
its main campus, as calculated on a full-time-equivalent basis. 69360

Each state university may continue to offer academic remedial 69361
and developmental courses at its main campus beyond the extent for 69362
which state operating subsidies may be paid under this division 69363
and may continue to offer such courses beyond the 2018-2019 69364
academic year. However, the university shall not receive any state 69365
operating subsidies for such courses above the maximum amounts 69366
permitted in this division. 69367

(C) Except as otherwise provided in division (B) of this 69368
section, beginning with students who commence undergraduate 69369
studies in the 2014-2015 academic year, state operating subsidies 69370
for academic remedial or developmental courses offered by state 69371
institutions of higher education may be paid only to Central state 69372
university, Shawnee state university, Youngstown state university, 69373
any university branch, any community college, any state community 69374
college, or any technical college. 69375

(D) Each state university shall grant credit for academic 69376
remedial or developmental courses successfully completed at an 69377
institution described in division (C) of this section pursuant to 69378
any applicable articulation and transfer agreements the university 69379
has entered into in accordance with policies and procedures 69380
adopted under section 3333.16, 3333.161, or 3333.162 of the 69381
Revised Code. 69382

(E) The chancellor of the Ohio board of regents shall do all 69383
of the following: 69384

(1) Withhold state operating subsidies for academic remedial 69385
or developmental courses provided by a state university as 69386
required in order to conform to divisions (B) and (C) of this 69387
section; 69388

(2) Adopt uniform statewide standards for academic remedial and developmental courses offered by all state institutions of higher education, ~~as defined in section 3345.011 of the Revised Code;~~

(3) Encourage and assist in the design and establishment of academic remedial and developmental courses by institutions of higher education;

(4) Define "academic year" for purposes of this section and section 3345.06 of the Revised Code;

(5) Encourage and assist in the development of articulation and transfer agreements between state universities and other institutions of higher education in accordance with policies and procedures adopted under sections 3333.16, 3333.161, and 3333.162 of the Revised Code.

(F) Not later than December 31, 2012, the presidents, or equivalent position, of all state institutions of higher education, or their designees, jointly shall establish uniform statewide standards in mathematics, science, reading, and writing each student enrolled in a state institution of higher education must meet to be considered in remediation-free status. The presidents also shall establish assessments, if they deem necessary, to determine if a student meets the standards adopted under this division. Each institution is responsible for assessing the needs of its enrolled students in the manner adopted by the presidents. The board of trustees or managing authority of each state institution of higher education shall adopt the remediation-free status standard, and any related assessments, into the institution's policies.

The chancellor shall assist in coordinating the work of the presidents under this division.

(G) Each year, not later than a date established by the

chancellor, each state institution of higher education shall 69420
report to the governor, the general assembly, the chancellor, and 69421
the superintendent of public instruction all of the following for 69422
the prior academic year: 69423

(1) The institution's aggregate costs for providing academic 69424
remedial or developmental courses; 69425

(2) The amount of those costs disaggregated according to the 69426
city, local, or exempted village school districts from which the 69427
students taking those courses received their high school diplomas; 69428

(3) Any other information with respect to academic remedial 69429
and developmental courses that the chancellor considers 69430
appropriate. 69431

(H) Not later than December 31, 2011, and the thirty-first 69432
day of each December thereafter, the chancellor and the 69433
superintendent of public instruction shall issue a report 69434
recommending policies and strategies for reducing the need for 69435
academic remediation and developmental courses at state 69436
institutions of higher education. 69437

(I) As used in this section, "state institution of higher 69438
education" has the same meaning as in section 3345.011 of the 69439
Revised Code. 69440

Sec. 3345.14. (A) As used in this section, "state college or 69441
university" means any state university or college defined in 69442
division (A)(1) of section 3345.12 of the Revised Code, and any 69443
other institution of higher education defined in division (A)(2) 69444
of that section. 69445

(B) All rights to and interests in discoveries, inventions, 69446
or patents which result from research or investigation conducted 69447
in any experiment station, bureau, laboratory, research facility, 69448
or other facility of any state college or university, or by 69449

employees of any state college or university acting within the 69450
scope of their employment or with funding, equipment, or 69451
infrastructure provided by or through any state college or 69452
university, shall be the sole property of that college or 69453
university. No person, firm, association, corporation, or 69454
governmental agency which uses the facilities of such college or 69455
university in connection with such research or investigation and 69456
no faculty member, employee, or student of such college or 69457
university participating in or making such discoveries or 69458
inventions, shall have any rights to or interests in such 69459
discoveries or inventions, including income therefrom, except as 69460
may, by determination of the board of trustees of such college or 69461
university, be assigned, licensed, transferred, or paid to such 69462
persons or entities in accordance with division (C) of this 69463
section or in accordance with rules adopted under division (D) of 69464
this section. 69465

(C) As may be determined from time to time by the board of 69466
trustees of any state college or university, the college or 69467
university may retain, assign, license, transfer, sell, or 69468
otherwise dispose of, in whole or in part and upon such terms as 69469
the board of trustees may direct, any and all rights to, interests 69470
in, or income from any such discoveries, inventions, or patents 69471
which the college or university owns or may acquire. Such 69472
dispositions may be to any individual, firm, association, 69473
corporation, or governmental agency, or to any faculty member, 69474
employee, or student of the college or university as the board of 69475
trustees may direct. Any and all income or proceeds derived or 69476
retained from such dispositions shall be applied to the general or 69477
special use of the college or university as determined by the 69478
board of trustees of such college or university. 69479

(D)(1) Notwithstanding any provision of the Revised Code to 69480
the contrary, including but not limited to sections 102.03, 69481

102.04, 2921.42, and 2921.43 of the Revised Code, the board of trustees of any state college or university may adopt rules in accordance with section 111.15 of the Revised Code that set forth circumstances under which an employee of the college or university may solicit or accept, and under which a person may give or promise to give to such an employee, a financial interest in any firm, corporation, or other association to which the board has assigned, licensed, transferred, or sold the college or university's interests in its intellectual property, including discoveries or inventions made or created by that employee or in patents issued to that employee.

(2) Rules established under division (D)(1) of this section shall include the following:

(a) A requirement that each college or university employee disclose to the college or university board of trustees any financial interest the employee holds in a firm, corporation, or other association as described in division (D)(1) of this section;

(b) A requirement that all disclosures made under division (D)(2)(a) of this section are reviewed by officials designated by the college or university board of trustees. The officials designated under this division shall determine the information that shall be disclosed and safeguards that shall be applied in order to manage, reduce, or eliminate any actual or potential conflict of interest.

(c) A requirement that in implementing division (D) of this section all members of the college or university board of trustees shall be governed by Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code.

(d) Guidelines to ensure that any financial interest held by any employee of the college or university does not result in misuse of the students, employees, or resources of the college or

university for the benefit of the firm, corporation, or other 69513
association in which such interest is held or does not otherwise 69514
interfere with the duties and responsibilities of the employee who 69515
holds such an interest. 69516

(3) Rules established under division (D)(1) of this section 69517
may include other provisions at the discretion of the college or 69518
university board of trustees. 69519

(E) Notwithstanding division (D) of this section, the Ohio 69520
ethics commission retains authority to provide assistance to a 69521
college or university board of trustees in the implementation of 69522
division (D)(2) of this section and to address any matter that is 69523
outside the scope of the exception to division (B) of this section 69524
as set forth in division (D) of this section or as set forth in 69525
rules established under division (D) of this section. 69526

Sec. 3345.32. (A) As used in this section: 69527

(1) "State university or college" means the institutions 69528
described in section 3345.27 of the Revised Code and the northeast 69529
Ohio medical university. 69530

(2) "Resident" has the meaning specified by rule of the 69531
chancellor of the Ohio board of regents. 69532

(3) "Statement of selective service status" means a statement 69533
certifying one of the following: 69534

(a) That the individual filing the statement has registered 69535
with the selective service system in accordance with the "Military 69536
Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as 69537
amended; 69538

(b) That the individual filing the statement is not required 69539
to register with the selective service for one of the following 69540
reasons: 69541

(i) The individual is under eighteen or over twenty-six years 69542

of age. 69543

(ii) The individual is on active duty with the armed forces 69544
of the United States other than for training in a reserve or 69545
national guard unit. 69546

(iii) The individual is a nonimmigrant alien lawfully in the 69547
United States in accordance with section 101 (a)(15) of the 69548
"Immigration and Nationality Act," 8 U.S.C. 1101, as amended. 69549

(iv) The individual is not a citizen of the United States and 69550
is a permanent resident of the Trust Territory of the Pacific 69551
Islands or the Northern Mariana Islands. 69552

(4) "Institution of higher education" means any eligible 69553
institution approved by the United States department of education 69554
pursuant to the "Higher Education Act of 1965," 79 Stat. 1219, as 69555
amended, or any institution whose students are eligible for 69556
financial assistance under any of the programs described by 69557
division (E) of this section. 69558

(B) The chancellor shall, by rule, specify the form of 69559
statements of selective service status to be filed in compliance 69560
with divisions (C) to (E) of this section. Each statement of 69561
selective service status shall contain a section wherein a male 69562
student born after December 31, 1959, certifies that the student 69563
has registered with the selective service system in accordance 69564
with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. 69565
App. 453, as amended. For those students not required to register 69566
with the selective service, as specified in divisions (A)(2)(b)(i) 69567
to (iv) of this section, a section shall be provided on the 69568
statement of selective service status for the certification of 69569
nonregistration and for an explanation of the reason for the 69570
exemption. The chancellor may require that such statements be 69571
accompanied by documentation specified by rule of the chancellor. 69572

(C) A state university or college that enrolls in any course, 69573

class, or program a male student born after December 31, 1959, who 69574
has not filed a statement of selective service status with the 69575
university or college shall, regardless of the student's 69576
residency, charge the student any tuition surcharge charged 69577
students who are not residents of this state. 69578

(D) No male born after December 31, 1959, shall be eligible 69579
to receive any loan, grant, scholarship, or other financial 69580
assistance for educational expenses granted under section 3315.33, 69581
3333.12, 3333.122, 3333.21, 3333.22, 3333.26, 3333.391, 3333.93, 69582
5910.03, 5910.032, or 5919.34 of the Revised Code, financed by an 69583
award under the choose Ohio first scholarship program established 69584
under section 3333.61 of the Revised Code, or financed by an award 69585
under the Ohio co-op/internship program established under section 69586
3333.72 of the Revised Code, unless that person has filed a 69587
statement of selective service status with that person's 69588
institution of higher education. 69589

(E) If an institution of higher education receives a 69590
statement from an individual certifying that the individual has 69591
registered with the selective service system in accordance with 69592
the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 69593
453, as amended, or that the individual is exempt from 69594
registration for a reason other than that the individual is under 69595
eighteen years of age, the institution shall not require the 69596
individual to file any further statements. If it receives a 69597
statement certifying that the individual is not required to 69598
register because the individual is under eighteen years of age, 69599
the institution shall require the individual to file a new 69600
statement of selective service status each time the individual 69601
seeks to enroll for a new academic term or makes application for a 69602
new loan or loan guarantee or for any form of financial assistance 69603
for educational expenses, until it receives a statement certifying 69604
that the individual has registered with the selective service 69605

system or is exempt from registration for a reason other than that 69606
the individual is under eighteen years of age. 69607

Sec. 3345.54. (A) As used in this section: 69608

(1) "Auxiliary facilities" has the same meaning as in section 69609
3345.12 of the Revised Code. 69610

(2) "Conduit entity" means an organization described in 69611
section 501(c)(3) of the Internal Revenue Code qualified as a 69612
public charity under section 509(a)(2) or 509(a)(3) of the 69613
Internal Revenue Code, whose corporate purpose allows it to 69614
perform the functions and obligations of a conduit entity pursuant 69615
to the terms of a financing agreement. 69616

(3) "Conveyed property" means auxiliary facilities conveyed 69617
by a state institution to a conduit entity pursuant to a financing 69618
agreement. 69619

(4) "Financing agreement" means a contract described in 69620
division (C) of this section. 69621

(5) "Independent funding source" means a private entity that 69622
enters into a financing agreement with a conduit entity and a 69623
state institution. 69624

(6) "State institution" means a state institution of higher 69625
education as defined in section 3345.011 of the Revised Code. 69626

(B) The board of trustees of a state institution, with the 69627
approval of the chancellor of the Ohio board of regents and the 69628
controlling board, may enter into a financing agreement with a 69629
conduit entity and an independent funding source selected either 69630
through a competitive selection process or by direct negotiations, 69631
and may convey to the conduit entity title to any auxiliary 69632
facilities owned by the state institution pursuant to the terms of 69633
a financing agreement. 69634

(C) A financing agreement under this section is a written 69635

contract entered into among a state institution, a conduit entity, 69636
and an independent funding source that provides for: 69637

(1) The conveyance of auxiliary facilities owned by a state 69638
institution to the conduit entity for consideration deemed 69639
adequate by the state institution; 69640

(2) The lease of the conveyed property by the conduit entity 69641
to the independent funding source and leaseback of the conveyed 69642
property to the conduit entity for a term not to exceed 69643
ninety-nine years; 69644

(3) Such other terms and conditions that may be negotiated 69645
and agreed upon by the parties, including, but not limited to, 69646
terms regarding: 69647

(a) Payment to the state institution by the conduit entity of 69648
revenues received by it from the operations of the conveyed 69649
property in excess of the payments it is required to make to the 69650
independent funding source under the lease-leaseback arrangement 69651
described in division (C)(2) of this section; 69652

(b) Pledge, assignment, or creation of a lien in favor of the 69653
independent funding source by the conduit entity of any revenues 69654
derived from the conveyed property; 69655

(c) Reverter or conveyance of title to the conveyed property 69656
to the state institution when the conveyed property is no longer 69657
subject to a lease with the independent funding source. 69658

(4) Terms and conditions required by the chancellor or the 69659
controlling board as a condition of approval of the financing 69660
agreement. 69661

(D) The state institution and the conduit entity may enter 69662
into such other management agreements or other contracts regarding 69663
the conveyed property the parties deem appropriate, including 69664
agreements pursuant to which the state institution may maintain or 69665

administer the conveyed property and collect and disburse revenues 69666
from the conveyed property on behalf of the conduit entity. 69667

(E) The parties may modify or extend the term of the 69668
financing agreement with the approval of the chancellor and the 69669
controlling board. 69670

(F) The conveyed property shall retain its exemption from 69671
property taxes and assessments as though title to the conveyed 69672
property were held by the state institution during any part of a 69673
tax year that title is held by the state institution or the 69674
conduit entity and, if held by the conduit entity, remains subject 69675
to the lease-leaseback arrangement described in division (C)(2) of 69676
this section. However, as a condition of the continued exemption 69677
of the conveyed property during the term of the lease-leaseback 69678
arrangement the conduit entity shall apply for and maintain the 69679
exemption as provided by law. 69680

(G) Nothing in this section is intended to abrogate, amend, 69681
limit, or replace any existing authority state institutions may 69682
have with respect to the conveyance, lease, lease-leaseback, 69683
finance, or acquisition of auxiliary facilities including, but not 69684
limited to, authority granted under sections 3345.07, 3345.11, and 69685
3345.12 of the Revised Code. 69686

Sec. 3345.55. (A) For purposes of this section, "university" 69687
includes a state institution of higher education as defined in 69688
section 3345.011 of the Revised Code and a university housing 69689
commission created under section 3347.01 of the Revised Code. 69690

(B) Each university may enter into a lease agreement with a 69691
nonpublic vendor to provide housing services in campus housing 69692
facilities to students of the university. The lease agreement may 69693
require the vendor to construct new campus housing facilities to 69694
serve students. The vendor with whom the university enters into an 69695
agreement shall be responsible for the operation and maintenance 69696

of the housing facilities. The lease shall be for a term of at least twenty years but shall not exceed thirty years. The lease agreement shall specify that the vendor is required to lease housing units to students of the university. Any university housing policies shall extend to and be enforced by the vendors with whom the university contracts. 69697
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(C) If the vendors with whom the university has entered into a lease agreement violate the terms of the lease, the university may revoke the lease and regain operational control over the dormitory. 69703
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Sec. 3345.81. (A) The chancellor of the Ohio board of regents shall develop a plan for designating public institutions of higher education as charter universities. In developing the plan, the chancellor shall: 69707
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(1) Study the administrative and financial relationships between the state and its public institutions of higher education to determine the extent to which public colleges and universities can manage their operations more effectively when accorded flexibility through selected delegation of authority; 69711
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(2) Examine legal and other issues related to the feasibility and practicability of restructuring the administrative and financial relationships between the state and its public institutions of higher education; 69716
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(3) Consult with the presidents of the institutions of higher education of the university system of Ohio. 69720
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(B) The office of budget and management, the department of administrative services, and each state institution of higher education shall provide the chancellor, upon the chancellor's request, with research assistance, fiscal and policy analysis, and other services in conducting the study and developing the plan 69722
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under this section. Each state agency shall provide the chancellor with any other assistance requested by the chancellor in conducting the study and developing the plan. 69727
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(C) The chancellor shall specify in the plan: 69730

(1) The manner in which a state institution of higher education may become eligible for restructured financial and operational authority, and performance measures and criteria to determine eligibility. The performance measures and criteria shall address the institution's ability to manage successfully its administrative and financial operations without jeopardizing the financial integrity and stability of the institution. 69731
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(2) Specific areas of financial and operational authority that are subject to increased flexibility; 69738
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(3) The nature and term of the management agreement required between the state and an institution. 69740
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(D) Not later than August 15, 2011, the chancellor shall submit to the general assembly and the governor a report of findings and recommendations for use in developing policy, statutory, and administrative rule changes necessary to implement the plan. No institution shall be designated a charter university until the general assembly, after considering the chancellor's plan, has enacted legislation establishing a procedure for making the designation. The chancellor shall not adopt, amend, or rescind any rules with respect to designating institutions as charter universities until that legislation is enacted. The general assembly intends that the general assembly, governor, and chancellor will take actions necessary for implementation of the plan for charter universities to commence July 1, 2012. 69742
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Sec. 3349.29. An agreement made pursuant to sections 3349.27 and 3349.28 of the Revised Code is not effective unless it has 69755
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been approved by the legislative authority of the municipal corporation with which the municipal university is identified, upon such legislative authority's determination that such agreement will be beneficial to the municipal corporation, and also approved by the Ohio board of regents, and, if required by any applicable appropriation measure, by the state controlling board, and any payment from state tax moneys provided for in the agreement will be subject to appropriations made by the general assembly. If provision is to be made under such agreement for the transfer of, or grant of the right to use, all or a substantial part of the assets of the municipal university to the state university and assumption by the state university of educational functions of the municipal university, such agreement shall not become effective, under sections 3349.27 to 3349.30 of the Revised Code until the electors of the municipal corporation have approved such transfer or grant.

The legislative authority of the municipal corporation shall, by ordinance, submit the question to the electors at a general, primary, or a special election to be held on the date specified in the ordinance. The ordinance shall be certified to the board of elections not later than the forty-fifth day preceding the date of the election. Notice of the election shall be published in one ~~or more newspapers~~ newspaper of general circulation in the municipal corporation once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, prior to the election ~~and,~~ ~~if.~~ If the board of elections operates and maintains a web site, notice of the election also shall be posted on that web site for thirty days prior to the election. The form of the ballot to be used at the election shall be substantially as follows, with such variations as may be appropriate to reflect the general nature of the transfer or grant of use of assets and the transfer of educational functions contemplated:

"Shall assets of the municipal university known as 69789
..... be transferred to (make available for 69790
use by) a state university known as 69791
and the state university assume educational functions of the 69792
municipal university and provide higher education in (or in close 69793
proximity to) the city of to the 69794
residents of the city of and of the state 69795
of Ohio and such others as shall be admitted?" 69796

The favorable vote of a majority of those voting on the 69797
proposition constitutes such approval as is required by this 69798
section. 69799

Sec. 3353.04. (A) The eTech Ohio commission may perform any 69800
act necessary to carry out the functions of this chapter, 69801
including any of the following: 69802

(1) Make grants to institutions and other organizations as 69803
prescribed by the general assembly for the provision of technical 69804
assistance, professional development, and other support services 69805
to enable school districts, community schools established under 69806
Chapter 3314. of the Revised Code, other educational institutions, 69807
and affiliates to utilize educational technology; 69808

(2) Establish a reporting system for school districts, 69809
community schools, other educational institutions, affiliates, and 69810
educational technology organizations that receive financial 69811
assistance from the commission. The system may require the 69812
reporting of information regarding the manner in which the 69813
assistance was expended, the manner in which the equipment or 69814
services purchased with the assistance is being utilized, the 69815
results or outcome of the utilization, the manner in which the 69816
utilization is compatible with the statewide academic standards 69817
adopted by the state board of education pursuant to section 69818
3301.079 of the Revised Code, and any other information determined 69819

by the commission. 69820

(3) Ensure that, where appropriate, products produced by any 69821
entity to which the commission provides financial assistance for 69822
use in elementary and secondary education are aligned with the 69823
statewide academic standards adopted by the state board pursuant 69824
to section 3301.079 of the Revised Code; 69825

(4) Promote accessibility to educational products aligned 69826
with the statewide academic standards, adopted by the state board 69827
pursuant to section 3301.079 of the Revised Code, for school 69828
districts, community schools, and other entities serving grades 69829
kindergarten through twelve; 69830

(5) Own or operate transmission facilities and 69831
interconnection facilities, or contract for transmission 69832
facilities and interconnection facilities, for an educational 69833
television, radio, or radio reading service network; 69834

(6) Establish standards for interconnection facilities used 69835
by the commission in the transmission of educational television, 69836
radio, or radio reading service programming; 69837

(7) Enter into agreements with noncommercial educational 69838
television or radio broadcasting stations or radio reading 69839
services for the operation of the interconnection; 69840

(8) Enter into agreements with noncommercial educational 69841
television or radio broadcasting stations or radio reading 69842
services for the production and use of educational television, 69843
radio, or radio reading service programs to be transmitted by the 69844
educational telecommunications network; 69845

(9) Execute contracts and other agreements necessary and 69846
desirable to carry out the purposes of this chapter and other 69847
duties prescribed to the commission by law or authorize the 69848
executive director of the commission to execute such contracts and 69849
agreements on the commission's behalf; 69850

(10) Act as consultant with educational television and 69851
educational radio stations and radio reading services toward 69852
coordination within the state of the distribution of federal funds 69853
that may become available for equipment for educational 69854
broadcasting or radio reading services; 69855

(11) Make payments to noncommercial Ohio educational 69856
television or radio broadcasting stations or radio reading 69857
services to sustain the operation of such stations or services; 69858

(12) In consultation with participants in programs 69859
administered by the commission, establish guidelines governing 69860
purchasing and procurement that facilitate the timely and 69861
effective implementation of such programs; 69862

(13) In consultation with participants in programs 69863
administered by the commission, consider the efficiency and cost 69864
savings of statewide procurement prior to allocating and releasing 69865
funds for such programs; 69866

(14) In consultation with participants in programs 69867
administered by the commission, establish a systems support 69868
network to facilitate the timely implementation of the programs 69869
and other projects and activities for which the commission 69870
provides assistance. 69871

(B) Chapters 123., 124., 125., and 153. of the Revised Code 69872
and sections 9.331, ~~9.332~~, and ~~9.333~~ to 9.335 of the Revised Code 69873
do not apply to contracts, programs, projects, or activities of 69874
the commission. 69875

Sec. 3353.15. There is hereby created in the state treasury 69876
the information technology service fund. The fund shall consist of 69877
money received by the eTech Ohio commission pursuant to agreements 69878
with educational entities for the provision of information 69879
technology services to support initiatives to align education from 69880

preschool through college, and any other money deposited into the 69881
fund by the commission. Money in the fund shall be used to provide 69882
the services specified in the agreements, including implementation 69883
and maintenance of an electronic clearinghouse for student 69884
transcript transfers and development of the education data 69885
repository described in section 3301.94 of the Revised Code. 69886
Investment earnings of the fund shall be credited to the fund. 69887

Sec. 3354.12. (A) Upon the request by resolution approved by 69888
the board of trustees of a community college district, and upon 69889
certification to the board of elections not less than ninety days 69890
prior to the election, the boards of elections of the county or 69891
counties comprising such district shall place upon the ballot in 69892
their respective counties the question of levying a tax on all the 69893
taxable property in the community college district outside the 69894
ten-mill limitation, for a specified period of years or for a 69895
continuing period of time, to provide funds for any one or more of 69896
the following purposes: the acquisition of sites, the erection, 69897
furnishing, and equipment of buildings, the acquisition, 69898
construction, or improvement of any property which the board of 69899
trustees of a community college district is authorized to acquire, 69900
construct, or improve and which has an estimated life of 69901
usefulness of five years or more as certified by the fiscal 69902
officer, and the payment of operating costs. Not more than two 69903
special elections shall be held in any one calendar year. Levies 69904
for a continuing period of time adopted under this section may be 69905
reduced in accordance with section 5705.261 of the Revised Code. 69906

If such proposal is to be or include the renewal of an 69907
existing levy at the expiration thereof, the ballot for such 69908
election shall state whether it is a renewal of a tax; a renewal 69909
of a stated number of mills and an increase of a stated number of 69910
mills, or a renewal of a part of an existing levy with a reduction 69911

of a stated number of mills; the year of the tax duplicate on 69912
which such renewal will first be made; and if earlier, the year of 69913
the tax duplicate on which such additional levy will first be 69914
made, which may include the tax duplicate for the current year 69915
unless the election is to be held after the first Tuesday after 69916
the first Monday in November of the current tax year. The ballot 69917
shall also state the period of years for such levy or that it is 69918
for a continuing period of time. If a levy for a continuing period 69919
of time provides for but is not limited to current expenses, the 69920
resolution of the board of trustees providing for the election on 69921
such levy shall apportion the annual rate of the levy between 69922
current expenses and the other purpose or purposes. Such 69923
apportionment need not be the same for each year of the levy, but 69924
the respective portions of the rate actually levied each year for 69925
current expenses and the other purpose or purposes shall be 69926
limited by such apportionment. The portion of the rate apportioned 69927
to the other purpose or purposes shall be reduced as provided in 69928
division (B) of this section. 69929

If a majority of the electors in such district voting on such 69930
question approve thereof, the county auditor or auditors of the 69931
county or counties comprising such district shall annually, for 69932
the applicable years, place such levy on the tax duplicate in such 69933
district, in an amount determined by the board of trustees, but 69934
not to exceed the amount set forth in the proposition approved by 69935
the electors. 69936

The boards of trustees of a community college district shall 69937
establish a special fund for all revenue derived from any tax 69938
levied pursuant to this section. 69939

The boards of elections of the county or counties comprising 69940
the district shall cause to be published in a newspaper of general 69941
circulation in each such county an advertisement of the proposed 69942
tax levy question once a week for two consecutive weeks, or as 69943

provided in section 7.16 of the Revised Code, prior to the 69944
election at which the question is to appear on the ballot, ~~and,~~ 69945
~~if.~~ If a board of elections operates and maintains a web site, 69946
that board also shall post ~~a similar~~ the advertisement on its web 69947
site for thirty days prior to that election. 69948

After the approval of such levy by vote, the board of 69949
trustees of a community college district may anticipate a fraction 69950
of the proceeds of such levy and from time to time issue 69951
anticipation notes having such maturity or maturities that the 69952
aggregate principal amount of all such notes maturing in any 69953
calendar year shall not exceed seventy-five per cent of the 69954
anticipated proceeds from such levy for such year, and that no 69955
note shall mature later than the thirty-first day of December of 69956
the tenth calendar year following the calendar year in which such 69957
note is issued. Each issue of notes shall be sold as provided in 69958
Chapter 133. of the Revised Code. 69959

The amount of bonds or anticipatory notes authorized pursuant 69960
to Chapter 3354. of the Revised Code, may include sums to repay 69961
moneys previously borrowed, advanced, or granted and expended for 69962
the purposes of such bond or anticipatory note issues, whether 69963
such moneys were advanced from the available funds of the 69964
community college district or by other persons, and the community 69965
college district may restore and repay to such funds or persons 69966
from the proceeds of such issues the moneys so borrowed, advanced 69967
or granted. 69968

All operating costs of such community college may be paid out 69969
of any gift or grant from the state, pursuant to division (K) of 69970
section 3354.09 of the Revised Code; out of student fees and 69971
tuition collected pursuant to division (G) of section 3354.09 of 69972
the Revised Code; or out of unencumbered funds from any other 69973
source of the community college income not prohibited by law. 69974

(B) Prior to the application of section 319.301 of the 69975

Revised Code, the rate of a levy that is limited to, or to the extent that it is apportioned to, purposes other than current expenses shall be reduced in the same proportion in which the district's total valuation increases during the life of the levy because of additions to such valuation that have resulted from improvements added to the tax list and duplicate.

Sec. 3354.16. (A) When the board of trustees of a community college district has by resolution determined to let by contract the work of improvements pursuant to the official plan of such district, contracts in amounts exceeding a dollar amount set by the board, which dollar amount shall not exceed ~~fifty two hundred~~ thousand dollars, shall be advertised after notices calling for bids have been published once a week for three consecutive weeks or as provided in section 7.16 of the Revised Code, in ~~at least~~ one a newspaper of general circulation within the community college district wherein the work is to be done. Subject to section 3354.10 of the Revised Code, the board of trustees of the district may let such contract to the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, who meets the requirements of section 153.54 of the Revised Code. Such contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done. Such contract shall be approved by the board of trustees and signed by the president of the board and by the contractor.

(B) On the first day of January of every even-numbered year, the chancellor of the board of regents shall adjust the ~~fifty two hundred~~ thousand dollar contract limit set forth in division (A) of this section, as adjusted in any previous year pursuant to this division. The chancellor shall adjust the limit according to the average increase or decrease for each of the two years immediately preceding the adjustment as set forth in the United States

department of commerce, bureau of economic analysis implicit price 70008
deflator for gross domestic product, nonresidential structures, or 70009
an alternative if the federal government ceases to publish this 70010
metric, provided that no increase or decrease for any year shall 70011
exceed three per cent of the contract limit in existence at the 70012
time of the adjustment. Notwithstanding division (A) of this 70013
section, the limit adjusted under this division shall be used 70014
thereafter in lieu of the limit in division (A) of this section. 70015

(C) Before entering into an improvement pursuant to division 70016
(A) of this section, the board of trustees of a community college 70017
district shall require separate and distinct proposals to be made 70018
for furnishing materials or doing work on the improvement, or 70019
both, in the board's discretion, for each separate and distinct 70020
branch or class of work entering into the improvement. The board 70021
of trustees also may require a single, combined proposal for the 70022
entire project for materials or doing work, or both, in the 70023
board's discretion, that includes each separate and distinct 70024
branch or class of work entering into the improvement. The board 70025
of trustees need not solicit separate proposals for a branch or 70026
class of work for an improvement if the estimate cost for that 70027
branch or class of work is less than ~~five~~ twenty thousand dollars. 70028

(D) When more than one branch or class of work is required, 70030
no contract for the entire job, or for a greater portion thereof 70031
than is embraced in one such branch or class of work shall be 70032
awarded, unless the separate bids do not cover all the work and 70033
materials required or the bids for the whole or for two or more 70034
kinds of work or materials are lower than the separate bids in the 70035
aggregate. The board of trustees need not award separate contracts 70036
for a branch or class of work entering into an improvement if the 70037
estimated cost for that branch or class of work is less than ~~five~~ 70038
twenty thousand dollars. 70039

Sec. 3355.09. Upon receipt of a request from the university 70040
branch district managing authority, the boards of elections of the 70041
county or counties comprising such district shall place upon the 70042
ballot in the district at the next primary or general election 70043
occurring not less than ninety days after submission of such 70044
request by such managing authority, the question of levying a tax 70045
outside the ten-mill limitation, for a specified period of years, 70046
to provide funds for any of the following purposes: 70047

(A) Purchasing a site or enlargement thereof; 70048

(B) The erection and equipment of buildings; 70049

(C) Enlarging, improving, or rebuilding buildings; 70050

(D) The acquisition, construction, or improvement of any 70051
property which the university branch district managing authority 70052
is authorized to acquire, construct, or improve and which has been 70053
certified by the fiscal officer to have an estimated useful life 70054
of five or more years. 70055

If a majority of the electors in such district voting on such 70056
question approve, the county auditor of the county or counties 70057
comprising such district shall annually place such levy on the tax 70058
duplicate in such district, in the amount set forth in the 70059
proposition approved by the electors. 70060

The managing authority of the university branch district 70061
shall establish a special fund pursuant to section 3355.07 of the 70062
Revised Code for all revenue derived from any tax levied pursuant 70063
to provisions of this section. 70064

The boards of election of the county or counties comprising 70065
the district shall cause to be published in a newspaper of general 70066
circulation in each such county an advertisement of the proposed 70067
tax levy question once a week for two consecutive weeks, or as 70068
provided in section 7.16 of the Revised Code, prior to the 70069

election at which the question is to appear on the ballot,~~and,~~ 70070
~~if.~~ If a board of elections operates and maintains a web site, 70071
that board also shall post ~~a similar~~ the advertisement on its web 70072
site for thirty days prior to the election. 70073

After the approval of such levy by vote, the managing 70074
authority of the university branch district may anticipate a 70075
fraction of the proceeds of such levy and from time to time, 70076
during the life of such levy, issue anticipation notes in an 70077
amount not to exceed seventy-five per cent of the estimated 70078
proceeds of such levy to be collected in each year over a period 70079
of five years after the date of the issuance of such notes, less 70080
an amount equal to the proceeds of such levy previously obligated 70081
for such year by the issuance of anticipation notes, provided, 70082
that the total amount maturing in any one year shall not exceed 70083
seventy-five per cent of the anticipated proceeds of such levy for 70084
that year. 70085

Each issue of notes shall be sold as provided in Chapter 133. 70086
of the Revised Code and shall mature serially in substantially 70087
equal amounts, during each remaining year of the levy, not to 70088
exceed five, after their issuance. 70089

Sec. 3357.16. (A) When the board of trustees of a technical 70090
college district has by resolution determined to let by contract 70091
the work of improvements pursuant to the official plan of such 70092
district, contracts in amounts exceeding a dollar amount set by 70093
the board, which dollar amount shall not exceed ~~fifty~~ two hundred 70094
thousand dollars, shall be advertised after notice calling for 70095
bids has been published once a week for three consecutive weeks or 70096
as provided in section 7.16 of the Revised Code, in ~~at least one~~ a 70097
newspaper of general circulation within the technical college 70098
district where the work is to be done. The board of trustees of 70099
the technical college district may let such contract to the lowest 70100

responsive and responsible bidder, in accordance with section 70101
9.312 of the Revised Code, who meets the requirements of section 70102
153.54 of the Revised Code. Such contract shall be in writing and 70103
shall be accompanied by or shall refer to plans and specifications 70104
for the work to be done. Such contract shall be approved by the 70105
board of trustees and signed by the president of the board and by 70106
the contractor. 70107

(B) On the first day of January of every even-numbered year, 70108
the chancellor of the board of regents shall adjust the ~~fifty two~~ 70109
hundred thousand dollar contract limit set forth in division (A) 70110
of this section, as adjusted in any previous year pursuant to this 70111
division. The chancellor shall adjust the limit according to the 70112
average increase or decrease for each of the two years immediately 70113
preceding the adjustment as set forth in the United States 70114
department of commerce, bureau of economic analysis implicit price 70115
deflator for gross domestic product, nonresidential structures, or 70116
an alternative if the federal government ceases to publish this 70117
metric, provided that no increase or decrease for any year shall 70118
exceed three per cent of the contract limit in existence at the 70119
time of the adjustment. Notwithstanding division (A) of this 70120
section, the limit adjusted under this division shall be used 70121
thereafter in lieu of the limit in division (A) of this section. 70122

(C) Before entering into an improvement pursuant to division 70123
(A) of this section, the board of trustees of a technical college 70124
district shall require separate and distinct proposals to be made 70125
for furnishing materials or doing work on the improvement, or 70126
both, in the board's discretion, for each separate and distinct 70127
branch or class of work entering into the improvement. The board 70128
of trustees also may require a single, combined proposal for the 70129
entire project for materials or doing work, or both, in the 70130
board's discretion, that includes each separate and distinct 70131
branch or class of work entering into the improvement. The board 70132

of trustees need not solicit separate proposals for a branch or 70133
class of work for an improvement if the estimate cost for that 70134
branch or class of work is less than ~~five~~ twenty thousand dollars. 70135

70136

(D) When more than one branch or class of work is required, 70137
no contract for the entire job, or for a greater portion thereof 70138
than is embraced in one such branch or class of work shall be 70139
awarded, unless the separate bids do not cover all the work and 70140
materials required or the bids for the whole or for two or more 70141
kinds of work or materials are lower than the separate bids in the 70142
aggregate. The board of trustees need not award separate contracts 70143
for a branch or class of work entering into an improvement if the 70144
estimated cost for that branch or class of work is less than ~~five~~ 70145
twenty thousand dollars. 70146

Sec. 3365.01. As used in this chapter: 70147

(A) "College" means any state-assisted college or university 70148
described in section 3333.041 of the Revised Code, any nonprofit 70149
institution holding a certificate of authorization pursuant to 70150
Chapter 1713. of the Revised Code, any private institution exempt 70151
from regulation under Chapter 3332. of the Revised Code as 70152
prescribed in section 3333.046 of the Revised Code, and any 70153
institution holding a certificate of registration from the state 70154
board of career colleges and schools and program authorization for 70155
an associate or bachelor's degree program issued under section 70156
3332.05 of the Revised Code. 70157

(B) "School district," except as specified in division (G) of 70158
this section, means any school district to which a student is 70159
admitted under section 3313.64, 3313.65, 3313.98, or 3317.08 of 70160
the Revised Code and does not include a joint vocational or 70161
cooperative education school district. 70162

(C) "Parent" has the same meaning as in section 3313.64 of 70163

the Revised Code. 70164

(D) "Participant" means a student enrolled in a college under 70165
the post-secondary enrollment options program established by this 70166
chapter. 70167

(E) "Secondary grade" means the ninth through twelfth grades. 70168

(F) "School foundation payments" means the amount required to 70169
be paid to a school district for a fiscal year under ~~Chapters~~ 70170
~~3306.~~ and Chapter 3317. of the Revised Code. 70171

(G) "Tuition base" means, with respect to a participant's 70172
school district, the sum of the formula amount plus the per pupil 70173
amount of the base funding supplements specified in divisions 70174
(C)(1) to (4) of section 3317.012 of the Revised Code for fiscal 70175
year 2009. 70176

The participant's "school district" in the case of a 70177
participant enrolled in a community school shall be the school 70178
district in which the student is entitled to attend school under 70179
section 3313.64 or 3313.65 of the Revised Code. 70180

(H) "Educational program" means enrollment in one or more 70181
school districts, in a nonpublic school, or in a college under 70182
division (B) of section 3365.04 of the Revised Code. 70183

(I) "Nonpublic school" means a chartered or nonchartered 70184
school for which minimum standards are prescribed by the state 70185
board of education pursuant to division (D) of section 3301.07 of 70186
the Revised Code. 70187

(J) "School year" means the year beginning on the first day 70188
of July and ending on the thirtieth day of June. 70189

(K) "Community school" means any school established pursuant 70190
to Chapter 3314. of the Revised Code that includes secondary 70191
grades. 70192

(L) "STEM school" means a science, technology, engineering, 70193

and mathematics school established under Chapter 3326. of the 70194
Revised Code. 70195

Sec. 3365.08. (A) A college that expects to receive or 70196
receives reimbursement under section 3365.07 of the Revised Code 70197
or through alternative funding agreements entered into under rules 70198
adopted under section 3365.12 of the Revised Code shall furnish to 70199
a participant all textbooks and materials directly related to a 70200
course taken by the participant under division (B) of section 70201
3365.04 of the Revised Code. No college shall charge such 70202
participant for tuition, textbooks, materials, or other fees 70203
directly related to any such course. 70204

(B) No student enrolled under this chapter in a course for 70205
which credit toward high school graduation is awarded shall 70206
receive direct financial aid through any state or federal program. 70207

(C) If a school district provides transportation for resident 70208
school students in grades eleven and twelve under section 3327.01 70209
of the Revised Code, a parent of a pupil enrolled in a course 70210
under division (A)(2) or (B) of section 3365.04 of the Revised 70211
Code may apply to the board of education for full or partial 70212
reimbursement for the necessary costs of transporting the student 70213
between the secondary school the student attends and the college 70214
in which the student is enrolled. Reimbursement may be paid solely 70215
from funds received by the district for pupil transportation under 70216
section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions 70217
of law. The state board of education shall establish guidelines, 70218
based on financial need, under which a district may provide such 70219
reimbursement. 70220

(D) If a community school provides or arranges transportation 70221
for its pupils in grades nine through twelve under section 70222
3314.091 of the Revised Code, a parent of a pupil of the community 70223
school who is enrolled in a course under division (A)(2) or (B) of 70224

section 3365.04 of the Revised Code may apply to the governing 70225
authority of the community school for full or partial 70226
reimbursement of the necessary costs of transporting the student 70227
between the community school and the college. The governing 70228
authority may pay the reimbursement in accordance with the state 70229
board's rules adopted under division (C) of this section solely 70230
from funds paid to it under section 3314.091 of the Revised Code. 70231

Sec. 3375.41. When a board of library trustees appointed 70232
pursuant to section 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, 70233
or 3375.30 of the Revised Code determines to construct, demolish, 70234
alter, repair, or reconstruct a library or make any improvements 70235
or repairs, the cost of which will exceed twenty-five thousand 70236
dollars, except in cases of urgent necessity or for the security 70237
and protection of library property, it shall proceed as follows: 70238

(A) The board shall advertise for a period of two weeks for 70239
sealed bids in ~~some a~~ newspaper of general circulation in the 70240
district, ~~and, if there are two such newspapers, the board shall~~ 70241
~~advertise in both of them~~ or as provided in section 7.16 of the 70242
Revised Code. If no newspaper has a general circulation in the 70243
district, the board shall post the advertisement in three public 70244
places in the district. The advertisement shall be entered in full 70245
by the fiscal officer on the record of proceedings of the board. 70246

(B) The sealed bids shall be filed with the fiscal officer by 70247
twelve noon of the last day stated in the advertisement. 70248

(C) The sealed bids shall be opened at the next meeting of 70249
the board, shall be publicly read by the fiscal officer, and shall 70250
be entered in full on the records of the board; provided that the 70251
board, by resolution, may provide for the public opening and 70252
reading of the bids by the fiscal officer, immediately after the 70253
time for their filing has expired, at the usual place of meeting 70254
of the board, and for the tabulation of the bids and a report of 70255

the tabulation to the board at its next meeting. 70256

(D) Each sealed bid shall contain the name of every person 70257
interested in it and shall meet the requirements of section 153.54 70258
of the Revised Code. 70259

(E) When both labor and materials are embraced in the work 70260
bid for, the board may require that each be separately stated in 70261
the sealed bid, with their price, or may require that bids be 70262
submitted without the separation. 70263

(F) None but the lowest responsible bid shall be accepted. 70264
The board may reject all the bids or accept any bid for both labor 70265
and material for the improvement or repair which is the lowest in 70266
the aggregate. 70267

(G) The contract shall be between the board and the bidders. 70268
The board shall pay the contract price for the work in cash at the 70269
times and in the amounts as provided by sections 153.12, 153.13, 70270
and 153.14 of the Revised Code. 70271

(H) When two or more bids are equal, in whole or in part, and 70272
are lower than any others, either may be accepted, but in no case 70273
shall the work be divided between these bidders. 70274

(I) When there is reason to believe there is collusion or 70275
combination among the bidders, the bids of those concerned in the 70276
collusion or combination shall be rejected. 70277

Sec. 3381.11. The board of trustees of a regional arts and 70278
cultural district or any officer or employee designated by such 70279
board may make any contract for the purchase of supplies or 70280
material or for labor for any work, under the supervision of the 70281
board, the cost of which shall not exceed ten thousand dollars. 70282
When an expenditure, other than for the acquisition of real 70283
estate, the discharge of noncontractual claims, personal services, 70284
or for the product or services of public utilities, exceeds ten 70285

thousand dollars, such expenditure shall be made only after a 70286
notice calling for bids has been published once a week for two 70287
consecutive weeks in ~~at least~~ one newspaper of general circulation 70288
within the territory of the district or as provided in section 70289
7.16 of the Revised Code. The board may then let said contract to 70290
the lowest and best bidder, who shall give a good and approved 70291
bond with ample security conditioned on the carrying out of the 70292
contract. Such contract shall be in writing and shall be 70293
accompanied by or shall refer to plans and specifications for the 70294
work to be done, approved by the board. The plans and 70295
specifications shall at all times be made and considered part of 70296
the contract. The contract shall be approved by the board and 70297
signed on behalf of the district and by the contractor. No sale of 70298
any real or personal property or a lease thereof having a term 70299
thereof in excess of five years shall be made except with the 70300
highest and best bidder after publication of notice for bids in 70301
the manner above provided. 70302

Competitive bidding under this section is not required when: 70303

(A) The board, by a two-thirds affirmative vote of its 70304
members, determines that a real and present emergency exists and 70305
such determination and the reasons therefor are entered in the 70306
proceedings of the board, when: 70307

(1) The estimated cost is less than fifteen thousand dollars; 70308
or 70309

(2) There is actual physical damage to structures or 70310
equipment. 70311

(B) Such purchase consists of supplies or a replacement or 70312
supplemental part or parts for a product or equipment owned or 70313
leased by the district and the only source of supply for such 70314
supplies, part, or parts is limited to a single supplier; 70315

(C) The lease is a renewal of a lease for electronic data 70316

processing equipment, services, or systems; 70317

(D) Services or supplies are available from a qualified 70318
nonprofit agency pursuant to sections 4115.31 to 4115.35 of the 70319
Revised Code; 70320

(E) With respect to any contract, agreement, or lease by a 70321
district with any arts or cultural organization or any 70322
governmental body or agency. 70323

Sec. 3501.03. At least ten days before the time for holding 70324
an election the board of elections shall give public notice by a 70325
proclamation, posted in a conspicuous place in the courthouse and 70326
city hall, or by one insertion in a newspaper published of general 70327
circulation in the county, ~~but if no newspaper is published in~~ 70328
~~such county, then in a newspaper of general circulation therein.~~ 70329

The board shall have authority to publicize information 70330
relative to registration or elections. 70331

Sec. 3501.17. (A) The expenses of the board of elections 70332
shall be paid from the county treasury, in pursuance of 70333
appropriations by the board of county commissioners, in the same 70334
manner as other county expenses are paid. If the board of county 70335
commissioners fails to appropriate an amount sufficient to provide 70336
for the necessary and proper expenses of the board of elections 70337
pertaining to the conduct of elections, the board of elections may 70338
apply to the court of common pleas within the county, which shall 70339
fix the amount necessary to be appropriated and the amount shall 70340
be appropriated. Payments shall be made upon vouchers of the board 70341
of elections certified to by its chairperson or acting chairperson 70342
and the director or deputy director, upon warrants of the county 70343
auditor. 70344

The board of elections shall not incur any obligation 70345
involving the expenditure of money unless there are moneys 70346

sufficient in the funds appropriated therefor to meet the 70347
obligation. If the board of elections requests a transfer of funds 70348
from one of its appropriation items to another, the board of 70349
county commissioners shall adopt a resolution providing for the 70350
transfer except as otherwise provided in section 5705.40 of the 70351
Revised Code. The expenses of the board of elections shall be 70352
apportioned among the county and the various subdivisions as 70353
provided in this section, and the amount chargeable to each 70354
subdivision shall be withheld by the county auditor from the 70355
moneys payable thereto at the time of the next tax settlement. At 70356
the time of submitting budget estimates in each year, the board of 70357
elections shall submit to the taxing authority of each 70358
subdivision, upon the request of the subdivision, an estimate of 70359
the amount to be withheld from the subdivision during the next 70360
fiscal year. 70361

A board of township trustees may, by resolution, request that 70362
the county auditor withhold expenses charged to the township from 70363
a specified township fund that is to be credited with revenue at a 70364
tax settlement. The resolution shall specify the tax levy ballot 70365
issue, the date of the election on the levy issue, and the 70366
township fund from which the expenses the board of elections 70367
incurs related to that ballot issue shall be withheld. 70368

(B) Except as otherwise provided in division (F) of this 70369
section, the compensation of the members of the board of elections 70370
and of the director, deputy director, and regular employees in the 70371
board's offices, other than compensation for overtime worked; the 70372
expenditures for the rental, furnishing, and equipping of the 70373
office of the board and for the necessary office supplies for the 70374
use of the board; the expenditures for the acquisition, repair, 70375
care, and custody of the polling places, booths, guardrails, and 70376
other equipment for polling places; the cost of tally sheets, 70377
maps, flags, ballot boxes, and all other permanent records and 70378

equipment; the cost of all elections held in and for the state and 70379
county; and all other expenses of the board which are not 70380
chargeable to a political subdivision in accordance with this 70381
section shall be paid in the same manner as other county expenses 70382
are paid. 70383

(C) The compensation of judges of elections and intermittent 70384
employees in the board's offices; the cost of renting, moving, 70385
heating, and lighting polling places and of placing and removing 70386
ballot boxes and other fixtures and equipment thereof, including 70387
voting machines, marking devices, and automatic tabulating 70388
equipment; the cost of printing and delivering ballots, cards of 70389
instructions, registration lists required under section 3503.23 of 70390
the Revised Code, and other election supplies, including the 70391
supplies required to comply with division (H) of section 3506.01 70392
of the Revised Code; the cost of contractors engaged by the board 70393
to prepare, program, test, and operate voting machines, marking 70394
devices, and automatic tabulating equipment; and all other 70395
expenses of conducting primaries and elections in the odd-numbered 70396
years shall be charged to the subdivisions in and for which such 70397
primaries or elections are held. The charge for each primary or 70398
general election in odd-numbered years for each subdivision shall 70399
be determined in the following manner: first, the total cost of 70400
all chargeable items used in conducting such elections shall be 70401
ascertained; second, the total charge shall be divided by the 70402
number of precincts participating in such election, in order to 70403
fix the cost per precinct; third, the cost per precinct shall be 70404
prorated by the board of elections to the subdivisions conducting 70405
elections for the nomination or election of offices in such 70406
precinct; fourth, the total cost for each subdivision shall be 70407
determined by adding the charges prorated to it in each precinct 70408
within the subdivision. 70409

(D) The entire cost of special elections held on a day other 70410

than the day of a primary or general election, both in 70411
odd-numbered or in even-numbered years, shall be charged to the 70412
subdivision. Where a special election is held on the same day as a 70413
primary or general election in an even-numbered year, the 70414
subdivision submitting the special election shall be charged only 70415
for the cost of ballots and advertising. Where a special election 70416
is held on the same day as a primary or general election in an 70417
odd-numbered year, the subdivision submitting the special election 70418
shall be charged for the cost of ballots and advertising for such 70419
special election, in addition to the charges prorated to such 70420
subdivision for the election or nomination of candidates in each 70421
precinct within the subdivision, as set forth in the preceding 70422
paragraph. 70423

(E) Where a special election is held on the day specified by 70424
division (E) of section 3501.01 of the Revised Code for the 70425
holding of a primary election, for the purpose of submitting to 70426
the voters of the state constitutional amendments proposed by the 70427
general assembly, and a subdivision conducts a special election on 70428
the same day, the entire cost of the special election shall be 70429
divided proportionally between the state and the subdivision based 70430
upon a ratio determined by the number of issues placed on the 70431
ballot by each, except as otherwise provided in division (G) of 70432
this section. Such proportional division of cost shall be made 70433
only to the extent funds are available for such purpose from 70434
amounts appropriated by the general assembly to the secretary of 70435
state. If a primary election is also being conducted in the 70436
subdivision, the costs shall be apportioned as otherwise provided 70437
in this section. 70438

(F) When a precinct is open during a general, primary, or 70439
special election solely for the purpose of submitting to the 70440
voters a statewide ballot issue, the state shall bear the entire 70441
cost of the election in that precinct and shall reimburse the 70442

county for all expenses incurred in opening the precinct. 70443

(G)(1) The state shall bear the entire cost of advertising in 70444
newspapers statewide ballot issues, explanations of those issues, 70445
and arguments for or against those issues, as required by Section 70446
1g of Article II and Section 1 of Article XVI, Ohio Constitution, 70447
and any other section of law. Appropriations made to the 70448
controlling board shall be used to reimburse the secretary of 70449
state for all expenses the secretary of state incurs for such 70450
advertising under division (G) of section 3505.062 of the Revised 70451
Code. 70452

(2) There is hereby created in the state treasury the 70453
statewide ballot advertising fund. The fund shall receive 70454
transfers approved by the controlling board, and shall be used by 70455
the secretary of state to pay the costs of advertising state 70456
ballot issues as required under division (G)(1) of this section. 70457
Any such transfers may be requested from and approved by the 70458
controlling board prior to placing the advertising, in order to 70459
facilitate timely provision of the required advertising. 70460

(H) The cost of renting, heating, and lighting registration 70461
places; the cost of the necessary books, forms, and supplies for 70462
the conduct of registration; and the cost of printing and posting 70463
precinct registration lists shall be charged to the subdivision in 70464
which such registration is held. 70465

(I) At the request of a majority of the members of the board 70466
of elections, the board of county commissioners may, by 70467
resolution, establish an elections revenue fund. Except as 70468
otherwise provided in this division, the purpose of the fund shall 70469
be to accumulate revenue withheld by or paid to the county under 70470
this section for the payment of any expense related to the duties 70471
of the board of elections specified in section 3501.11 of the 70472
Revised Code, upon approval of a majority of the members of the 70473
board of elections. The fund shall not accumulate any revenue 70474

withheld by or paid to the county under this section for the 70475
compensation of the members of the board of elections or of the 70476
director, deputy director, or other regular employees in the 70477
board's offices, other than compensation for overtime worked. 70478

Notwithstanding sections 5705.14, 5705.15, and 5705.16 of the 70479
Revised Code, the board of county commissioners may, by 70480
resolution, transfer money to the elections revenue fund from any 70481
other fund of the political subdivision from which such payments 70482
lawfully may be made. Following an affirmative vote of a majority 70483
of the members of the board of elections, the board of county 70484
commissioners may, by resolution, rescind an elections revenue 70485
fund established under this division. If an elections revenue fund 70486
is rescinded, money that has accumulated in the fund shall be 70487
transferred to the county general fund. 70488

(J) As used in this section: 70489

(1) "Political subdivision" and "subdivision" mean any board 70490
of county commissioners, board of township trustees, legislative 70491
authority of a municipal corporation, board of education, or any 70492
other board, commission, district, or authority that is empowered 70493
to levy taxes or permitted to receive the proceeds of a tax levy, 70494
regardless of whether the entity receives tax settlement moneys as 70495
described in division (A) of this section; 70496

(2) "Statewide ballot issue" means any ballot issue, whether 70497
proposed by the general assembly or by initiative or referendum, 70498
that is submitted to the voters throughout the state. 70499

Sec. 3505.13. A contract for the printing of ballots 70500
involving a cost in excess of ten thousand dollars shall not be 70501
let until after five days' notice published once in a ~~leading~~ 70502
newspaper ~~published~~ of general circulation in the county or upon 70503
notice given by mail by the board of elections, addressed to the 70504
responsible printing offices within the state. Except as otherwise 70505

provided in this section, each bid for such printing must be 70506
accompanied by a bond with at least two sureties, or a surety 70507
company, satisfactory to the board, in a sum double the amount of 70508
the bid, conditioned upon the faithful performance of the contract 70509
for such printing as is awarded and for the payment as damages by 70510
such bidder to the board of any excess of cost over the bid which 70511
it may be obliged to pay for such work by reason of the failure of 70512
the bidder to complete the contract. No bid unaccompanied by such 70513
bond shall be considered by the board. The board may, however, 70514
waive the requirement that each bid be accompanied by a bond if 70515
the cost of the contract is ten thousand dollars or less. The 70516
contract shall be let to the lowest responsible bidder in the 70517
state. All ballots shall be printed within the state. 70518

Sec. 3506.05. (A) As used in this section, except when used 70519
as part of the phrase "tabulating equipment" or "automatic 70520
tabulating equipment": 70521

(1) "Equipment" means a voting machine, marking device, 70522
automatic tabulating equipment, or software. 70523

(2) "Vendor" means the person that owns, manufactures, 70524
distributes, or has the legal right to control the use of 70525
equipment, or the person's agent. 70526

(B) No voting machine, marking device, automatic tabulating 70527
equipment, or software for the purpose of casting or tabulating 70528
votes or for communications among systems involved in the 70529
tabulation, storage, or casting of votes shall be purchased, 70530
leased, put in use, or continued to be used, except for 70531
experimental use as provided in division (B) of section 3506.04 of 70532
the Revised Code, unless it, a manual of procedures governing its 70533
use, and training materials, service, and other support 70534
arrangements have been certified by the secretary of state and 70535
unless the board of elections of each county where the equipment 70536

will be used has assured that a demonstration of the use of the 70537
equipment has been made available to all interested electors. The 70538
secretary of state shall appoint a board of voting machine 70539
examiners to examine and approve equipment and its related manuals 70540
and support arrangements. The board shall consist of four members, 70541
who shall be appointed as follows: 70542

(1) Two members appointed by the secretary of state. 70543

(2) One member appointed by either the speaker of the house 70544
of representatives or the minority leader of the house of 70545
representatives, whichever is a member of the opposite political 70546
party from the one to which the secretary of state belongs. 70547

(3) One member appointed by either the president of the 70548
senate or the minority leader of the senate, whichever is a member 70549
of the opposite political party from the one to which the 70550
secretary of state belongs. 70551

In all cases of a tie vote or a disagreement in the board, if 70552
no decision can be arrived at, the board shall submit the matter 70553
in controversy to the secretary of state, who shall summarily 70554
decide the question, and the secretary of state's decision shall 70555
be final. Each member of the board shall be a competent and 70556
experienced election officer or a person who is knowledgeable 70557
about the operation of voting equipment and shall serve during the 70558
secretary of state's term. Any vacancy on the board shall be 70559
filled in the same manner as the original appointment. The 70560
secretary of state shall provide staffing assistance to the board, 70561
at the board's request. 70562

For the member's service, each member of the board shall 70563
receive three hundred dollars per day for each combination of 70564
marking device, tabulating equipment, and voting machine examined 70565
and reported, but in no event shall a member receive more than six 70566
hundred dollars to examine and report on any one marking device, 70567

item of tabulating equipment, or voting machine. Each member of 70568
the board shall be reimbursed for expenses the member incurs 70569
during an examination or during the performance of any related 70570
duties that may be required by the secretary of state. 70571
Reimbursement of these expenses shall be made in accordance with, 70572
and shall not exceed, the rates provided for under section 126.31 70573
of the Revised Code. 70574

Neither the secretary of state nor the board, nor any public 70575
officer who participates in the authorization, examination, 70576
testing, or purchase of equipment, shall have any pecuniary 70577
interest in the equipment or any affiliation with the vendor. 70578

(C)(1) A vendor who desires to have the secretary of state 70579
certify equipment shall first submit the equipment, all current 70580
related procedural manuals, and a current description of all 70581
related support arrangements to the board of voting machine 70582
examiners for examination, testing, and approval. The submission 70583
shall be accompanied by a fee of ~~eighteen~~ two thousand four 70584
hundred dollars and a detailed explanation of the construction and 70585
method of operation of the equipment, a full statement of its 70586
advantages, and a list of the patents and copyrights used in 70587
operations essential to the processes of vote recording and 70588
tabulating, vote storage, system security, and other crucial 70589
operations of the equipment as may be determined by the board. An 70590
additional fee, in an amount to be set by rules promulgated by the 70591
board, may be imposed to pay for the costs of alternative testing 70592
or testing by persons other than board members, record-keeping, 70593
and other extraordinary costs incurred in the examination process. 70594
Moneys not used shall be returned to the person or entity 70595
submitting the equipment for examination. 70596

(2) Fees collected by the secretary of state under this 70597
section shall be deposited into the state treasury to the credit 70598
of the board of voting machine examiners fund, which is hereby 70599

created. All moneys credited to this fund shall be used solely for 70600
the purpose of paying for the services and expenses of each member 70601
of the board or for other expenses incurred relating to the 70602
examination, testing, reporting, or certification of voting 70603
machine devices, the performance of any related duties as required 70604
by the secretary of state, or the reimbursement of any person 70605
submitting an examination fee as provided in this chapter. 70606

(D) Within sixty days after the submission of the equipment 70607
and payment of the fee, or as soon thereafter as is reasonably 70608
practicable, but in any event within not more than ninety days 70609
after the submission and payment, the board of voting machine 70610
examiners shall examine the equipment and file with the secretary 70611
of state a written report on the equipment with its 70612
recommendations and its determination or condition of approval 70613
regarding whether the equipment, manual, and other related 70614
materials or arrangements meet the criteria set forth in sections 70615
3506.07 and 3506.10 of the Revised Code and can be safely used by 70616
the voters at elections under the conditions prescribed in Title 70617
XXXV of the Revised Code, or a written statement of reasons for 70618
which testing requires a longer period. The board may grant 70619
temporary approval for the purpose of allowing experimental use of 70620
equipment. If the board finds that the equipment meets the 70621
criteria set forth in sections 3506.06, 3506.07, and 3506.10 of 70622
the Revised Code, can be used safely and can be depended upon to 70623
record and count accurately and continuously the votes of 70624
electors, and has the capacity to be warranted, maintained, and 70625
serviced, it shall approve the equipment and recommend that the 70626
secretary of state certify the equipment. The secretary of state 70627
shall notify all boards of elections of any such certification. 70628
Equipment of the same model and make, if it provides for recording 70629
of voter intent, system security, voter privacy, retention of 70630
vote, and communication of voting records in an identical manner, 70631
may then be adopted for use at elections. 70632

(E) The vendor shall notify the secretary of state, who shall then notify the board of voting machine examiners, of any enhancement and any significant adjustment to the hardware or software that could result in a patent or copyright change or that significantly alters the methods of recording voter intent, system security, voter privacy, retention of the vote, communication of voting records, and connections between the system and other systems. The vendor shall provide the secretary of state with an updated operations manual for the equipment, and the secretary of state shall forward the manual to the board. Upon receiving such a notification and manual, the board may require the vendor to submit the equipment to an examination and test in order for the equipment to remain certified. The board or the secretary of state shall periodically examine, test, and inspect certified equipment to determine continued compliance with the requirements of this chapter and the initial certification. Any examination, test, or inspection conducted for the purpose of continuing certification of any equipment in which a significant problem has been uncovered or in which a record of continuing problems exists shall be performed pursuant to divisions (C) and (D) of this section, in the same manner as the examination, test, or inspection is performed for initial approval and certification.

(F) If, at any time after the certification of equipment, the board of voting machine examiners or the secretary of state is notified by a board of elections of any significant problem with the equipment or determines that the equipment fails to meet the requirements necessary for approval or continued compliance with the requirements of this chapter, or if the board of voting machine examiners determines that there are significant enhancements or adjustments to the hardware or software, or if notice of such enhancements or adjustments has not been given as required by division (E) of this section, the secretary of state shall notify the users and vendors of that equipment that

certification of the equipment may be withdrawn. 70666

(G)(1) The notice given by the secretary of state under 70667
division (F) of this section shall be in writing and shall specify 70668
both of the following: 70669

(a) The reasons why the certification may be withdrawn; 70670

(b) The date on which certification will be withdrawn unless 70671
the vendor takes satisfactory corrective measures or explains why 70672
there are no problems with the equipment or why the enhancements 70673
or adjustments to the equipment are not significant. 70674

(2) A vendor who receives a notice under division (F) of this 70675
section shall, within thirty days after receiving it, submit to 70676
the board of voting machine examiners in writing a description of 70677
the corrective measures taken and the date on which they were 70678
taken, or the explanation required under division (G)(1)(b) of 70679
this section. 70680

(3) Not later than fifteen days after receiving a written 70681
description or explanation under division (G)(2) of this section 70682
from a vendor, the board shall determine whether the corrective 70683
measures taken or the explanation is satisfactory to allow 70684
continued certification of the equipment, and the secretary of 70685
state shall send the vendor a written notice of the board's 70686
determination, specifying the reasons for it. If the board has 70687
determined that the measures taken or the explanation given is 70688
unsatisfactory, the notice shall include the effective date of 70689
withdrawal of the certification. This date may be different from 70690
the date originally specified in division (G)(1)(b) of this 70691
section. 70692

(4) A vendor who receives a notice under division (G)(3) of 70693
this section indicating a decision to withdraw certification may, 70694
within thirty days after receiving it, request in writing that the 70695
board hold a hearing to reconsider its decision. Any interested 70696

party shall be given the opportunity to submit testimony or 70697
documentation in support of or in opposition to the board's 70698
recommendation to withdraw certification. Failure of the vendor to 70699
take appropriate steps as described in division (G)(1)(b) or to 70700
comply with division (G)(2) of this section results in a waiver of 70701
the vendor's rights under division (G)(4) of this section. 70702

(H)(1) The secretary of state, in consultation with the board 70703
of voting machine examiners, shall establish, by rule, guidelines 70704
for the approval, certification, and continued certification of 70705
the voting machines, marking devices, and tabulating equipment to 70706
be used under Title XXXV of the Revised Code. The guidelines shall 70707
establish procedures requiring vendors or computer software 70708
developers to place in escrow with an independent escrow agent 70709
approved by the secretary of state a copy of all source code and 70710
related documentation, together with periodic updates as they 70711
become known or available. The secretary of state shall require 70712
that the documentation include a system configuration and that the 70713
source code include all relevant program statements in low- or 70714
high-level languages. As used in this division, "source code" does 70715
not include variable codes created for specific elections. 70716

(2) Nothing in any rule adopted under division (H) of this 70717
section shall be construed to limit the ability of the secretary 70718
of state to follow or adopt, or to preclude the secretary of state 70719
from following or adopting, any guidelines proposed by the federal 70720
election commission, any entity authorized by the federal election 70721
commission to propose guidelines, the election assistance 70722
commission, or any entity authorized by the election assistance 70723
commission to propose guidelines. 70724

(3)(a) Before the initial certification of any direct 70725
recording electronic voting machine with a voter verified paper 70726
audit trail, and as a condition for the continued certification 70727
and use of those machines, the secretary of state shall establish, 70728

by rule, standards for the certification of those machines. Those 70729
standards shall include, but are not limited to, all of the 70730
following: 70731

(i) A definition of a voter verified paper audit trail as a 70732
paper record of the voter's choices that is verified by the voter 70733
prior to the casting of the voter's ballot and that is securely 70734
retained by the board of elections; 70735

(ii) Requirements that the voter verified paper audit trail 70736
shall not be retained by any voter and shall not contain 70737
individual voter information; 70738

(iii) A prohibition against the production by any direct 70739
recording electronic voting machine of anything that legally could 70740
be removed by the voter from the polling place, such as a receipt 70741
or voter confirmation; 70742

(iv) A requirement that paper used in producing a voter 70743
verified paper audit trail be sturdy, clean, and resistant to 70744
degradation; 70745

(v) A requirement that the voter verified paper audit trail 70746
shall be capable of being optically scanned for the purpose of 70747
conducting a recount or other audit of the voting machine and 70748
shall be readable in a manner that makes the voter's ballot 70749
choices obvious to the voter without the use of computer or 70750
electronic codes; 70751

(vi) A requirement, for office-type ballots, that the voter 70752
verified paper audit trail include the name of each candidate 70753
selected by the voter; 70754

(vii) A requirement, for questions and issues ballots, that 70755
the voter verified paper audit trail include the title of the 70756
question or issue, the name of the entity that placed the question 70757
or issue on the ballot, and the voter's ballot selection on that 70758
question or issue, but not the entire text of the question or 70759

issue. 70760

(b) The secretary of state, by rule adopted under Chapter 70761
119. of the Revised Code, may waive the requirement under division 70762
(H)(3)(a)(v) of this section, if the secretary of state determines 70763
that the requirement is cost prohibitive. 70764

(4)(a) Except as otherwise provided in division (H)(4)(c) of 70765
this section, any voting machine, marking device, or automatic 70766
tabulating equipment initially certified or acquired on or after 70767
December 1, 2008, shall have the most recent federal certification 70768
number issued by the election assistance commission. 70769

(b) Any voting machine, marking device, or automatic 70770
tabulating equipment certified for use in this state on ~~the~~ 70771
~~effective date of this amendment~~ September 12, 2008, shall meet, 70772
as a condition of continued certification and use, the voting 70773
system standards adopted by the federal election commission in 70774
2002. 70775

(c) A county that acquires additional voting machines, 70776
marking devices, or automatic tabulating equipment on or after 70777
December 1, 2008, shall not be considered to have acquired those 70778
machines, devices, or equipment on or after December 1, 2008, for 70779
the purpose of division (H)(4)(a) of this section if all of the 70780
following apply: 70781

(i) The voting machines, marking devices, or automatic 70782
tabulating equipment acquired are the same as the machines, 70783
devices, or equipment currently used in that county. 70784

(ii) The acquisition of the voting machines, marking devices, 70785
or automatic tabulating equipment does not replace or change the 70786
primary voting system used in that county. 70787

(iii) The acquisition of the voting machines, marking 70788
devices, or automatic tabulating equipment is for the purpose of 70789
replacing inoperable machines, devices, or equipment or for the 70790

purpose providing additional machines, devices, or equipment 70791
required to meet the allocation requirements established pursuant 70792
to division (I) of section 3501.11 of the Revised Code. 70793

Sec. 3701.021. (A) The public health council shall adopt, in 70794
accordance with Chapter 119. of the Revised Code, such rules as 70795
are necessary to carry out sections 3701.021 to 3701.0210 of the 70796
Revised Code, including, but not limited to, rules to establish 70797
the following: 70798

(1) Medical and financial eligibility requirements for the 70799
program for medically handicapped children; 70800

(2) Eligibility requirements for providers of services for 70801
medically handicapped children; 70802

(3) Procedures to be followed by the department of health in 70803
disqualifying providers for violating requirements adopted under 70804
division (A)(2) of this section; 70805

(4) Procedures to be used by the department regarding 70806
application for diagnostic services under division (B) of section 70807
3701.023 of the Revised Code and payment for those services under 70808
division (E) of that section; 70809

(5) Standards for the provision of service coordination by 70810
the department of health and city and general health districts; 70811

(6) Procedures for the department to use to determine the 70812
amount to be paid annually by each county for services for 70813
medically handicapped children and to allow counties to retain 70814
funds under divisions (A)(2) and (3) of section 3701.024 of the 70815
Revised Code; 70816

(7) Financial eligibility requirements for services for Ohio 70817
residents twenty-one years of age or older who have cystic 70818
fibrosis; 70819

(8) Criteria for payment of approved providers who provide 70820

services for medically handicapped children;	70821
(9) Criteria for the department to use in determining whether the payment of health insurance premiums of participants in the program for medically handicapped children is cost-effective;	70822 70823 70824
(10) Procedures for appeal of denials of applications under divisions (A) and (D) of section 3701.023 of the Revised Code, disqualification of providers, and amounts paid for services;	70825 70826 70827
(11) Terms of appointment for members of the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code;	70828 70829 70830
(12) Eligibility requirements for the hemophilia program, including income and hardship requirements;	70831 70832
<u>(13) If a manufacturer discount program is established under division (J)(1) of section 3701.023 of the Revised Code, procedures for administering the program, including criteria and other requirements for participation in the program by manufacturers of drugs and nutritional formulas.</u>	70833 70834 70835 70836 70837
(B) The department of health shall develop a manual of operational procedures and guidelines for the program for medically handicapped children to implement sections 3701.021 to 3701.0210 of the Revised Code.	70838 70839 70840 70841
Sec. 3701.023. (A) The department of health shall review applications for eligibility for the program for medically handicapped children that are submitted to the department by city and general health districts and physician providers approved in accordance with division (C) of this section. The department shall determine whether the applicants meet the medical and financial eligibility requirements established by the public health council pursuant to division (A)(1) of section 3701.021 of the Revised Code, and by the department in the manual of operational	70842 70843 70844 70845 70846 70847 70848 70849 70850

procedures and guidelines for the program for medically 70851
handicapped children developed pursuant to division (B) of that 70852
section. Referrals of potentially eligible children for the 70853
program may be submitted to the department on behalf of the child 70854
by parents, guardians, public health nurses, or any other 70855
interested person. The department of health may designate other 70856
agencies to refer applicants to the department of health. 70857

(B) In accordance with the procedures established in rules 70858
adopted under division (A)(4) of section 3701.021 of the Revised 70859
Code, the department of health shall authorize a provider or 70860
providers to provide to any Ohio resident under twenty-one years 70861
of age, without charge to the resident or the resident's family 70862
and without restriction as to the economic status of the resident 70863
or the resident's family, diagnostic services necessary to 70864
determine whether the resident has a medically handicapping or 70865
potentially medically handicapping condition. 70866

(C) The department of health shall review the applications of 70867
health professionals, hospitals, medical equipment suppliers, and 70868
other individuals, groups, or agencies that apply to become 70869
providers. The department shall enter into a written agreement 70870
with each applicant who is determined, pursuant to the 70871
requirements set forth in rules adopted under division (A)(2) of 70872
section 3701.021 of the Revised Code, to be eligible to be a 70873
provider in accordance with the provider agreement required by the 70874
medical assistance program established under section 5111.01 of 70875
the Revised Code. No provider shall charge a medically handicapped 70876
child or the child's parent or guardian for services authorized by 70877
the department under division (B) or (D) of this section. 70878

The department, in accordance with rules adopted under 70879
division (A)(3) of section 3701.021 of the Revised Code, may 70880
disqualify any provider from further participation in the program 70881
for violating any requirement set forth in rules adopted under 70882

division (A)(2) of that section. The disqualification shall not
take effect until a written notice, specifying the requirement
violated and describing the nature of the violation, has been
delivered to the provider and the department has afforded the
provider an opportunity to appeal the disqualification under
division (H) of this section.

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

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

professionals. 70915

Payments made to providers by the department of health 70916
pursuant to this division for inpatient hospital care, outpatient 70917
care, and all other medical assistance furnished to eligible 70918
recipients shall be made in accordance with rules adopted by the 70919
public health council pursuant to division (A) of section 3701.021 70920
of the Revised Code. 70921

The departments of health and job and family services shall 70922
jointly implement procedures to ensure that duplicate payments are 70923
not made under the program for medically handicapped children and 70924
the medical assistance program established under section 5111.01 70925
of the Revised Code and to identify and recover duplicate 70926
payments. 70927

(F) At the time of applying for participation in the program 70928
for medically handicapped children, a medically handicapped child 70929
or the child's parent or guardian shall disclose the identity of 70930
any third party against whom the child or the child's parent or 70931
guardian has or may have a right of recovery for goods and 70932
services provided under division (B) or (D) of this section. The 70933
department of health shall require a medically handicapped child 70934
who receives services from the program or the child's parent or 70935
guardian to apply for all third-party benefits for which the child 70936
may be eligible and require the child, parent, or guardian to 70937
apply all third-party benefits received to the amount determined 70938
under division (E) of this section as the amount payable for goods 70939
and services authorized under division (B) or (D) of this section. 70940
The department is the payer of last resort and shall pay for 70941
authorized goods or services, up to the amount determined under 70942
division (E) of this section for the authorized goods or services, 70943
only to the extent that payment for the authorized goods or 70944
services is not made through third-party benefits. When a third 70945
party fails to act on an application or claim for benefits by a 70946

medically handicapped child or the child's parent or guardian, the 70947
department shall pay for the goods or services only after ninety 70948
days have elapsed since the date the child, parents, or guardians 70949
made an application or claim for all third-party benefits. 70950
Third-party benefits received shall be applied to the amount 70951
determined under division (E) of this section. Third-party 70952
payments for goods and services not authorized under division (B) 70953
or (D) of this section shall not be applied to payment amounts 70954
determined under division (E) of this section. Payment made by the 70955
department shall be considered payment in full of the amount 70956
determined under division (E) of this section. Medicaid payments 70957
for persons eligible for the medical assistance program 70958
established under section 5111.01 of the Revised Code shall be 70959
considered payment in full of the amount determined under division 70960
(E) of this section. 70961

(G) The department of health shall administer a program to 70962
provide services to Ohio residents who are twenty-one or more 70963
years of age who have cystic fibrosis and who meet the eligibility 70964
requirements established by the rules of the public health council 70965
pursuant to division (A)(7) of section 3701.021 of the Revised 70966
Code, subject to all provisions of this section, but not subject 70967
to section 3701.024 of the Revised Code. 70968

(H) The department of health shall provide for appeals, in 70969
accordance with rules adopted under section 3701.021 of the 70970
Revised Code, of denials of applications for the program for 70971
medically handicapped children under division (A) or (D) of this 70972
section, disqualification of providers, or amounts paid under 70973
division (E) of this section. Appeals under this division are not 70974
subject to Chapter 119. of the Revised Code. 70975

The department may designate ombudspersons to assist 70976
medically handicapped children or their parents or guardians, upon 70977
the request of the children, parents, or guardians, in filing 70978

appeals under this division and to serve as children's, parents', 70979
or guardians' advocates in matters pertaining to the 70980
administration of the program for medically handicapped children 70981
and eligibility for program services. The ombudspersons shall 70982
receive no compensation but shall be reimbursed by the department, 70983
in accordance with rules of the office of budget and management, 70984
for their actual and necessary travel expenses incurred in the 70985
performance of their duties. 70986

(I) The department of health, and city and general health 70987
districts providing service coordination pursuant to division 70988
(A)(2) of section 3701.024 of the Revised Code, shall provide 70989
service coordination in accordance with the standards set forth in 70990
the rules adopted under section 3701.021 of the Revised Code, 70991
without charge, and without restriction as to economic status. 70992

(J)(1) The department of health may establish a manufacturer 70993
discount program under which a manufacturer of a drug or 70994
nutritional formula is permitted to enter into an agreement with 70995
the department to provide a discount on the price of the drug or 70996
nutritional formula distributed to medically handicapped children 70997
participating in the program for medically handicapped children. 70998
The program shall be administered in accordance with rules adopted 70999
under section 3701.021 of the Revised Code. 71000

(2) If a manufacturer enters into an agreement with the 71001
department as described in division (J)(1) of this section, the 71002
manufacturer and the department may negotiate the amount and terms 71003
of the discount. 71004

(3) In lieu of establishing a discount program as described 71005
in division (J)(1) of this section, the department and a 71006
manufacturer of a drug or nutritional formula may discuss a 71007
donation of drugs, nutritional formulas, or money by the 71008
manufacturer to the department. 71009

Sec. 3701.0211. For each year that federal funds are made 71010
available to states under Title V of the "Social Security Act," 71011
124 Stat. 352 (2010), 42 U.S.C. 710, as amended, for use in 71012
providing abstinence education, the director of health shall 71013
submit to the United States secretary of health and human services 71014
an application for the allotment of those funds that is available 71015
to this state. The director shall use the funds received in 71016
accordance with any conditions under which the application was 71017
approved. 71018

Sec. 3701.032. The director of health may adopt rules 71019
defining what constitutes a "health home" for the purpose of any 71020
entity that is authorized to provide care coordination services. 71021
The rules shall be adopted in accordance with Chapter 119. of the 71022
Revised Code. 71023

Sec. 3701.07. (A) The public health council shall adopt rules 71024
in accordance with Chapter 119. of the Revised Code defining and 71025
classifying hospitals and dispensaries and providing for the 71026
reporting of information by hospitals and dispensaries. Except as 71027
otherwise provided in the Revised Code, the rules providing for 71028
the reporting of information shall not require inclusion of any 71029
confidential patient data or any information concerning the 71030
financial condition, income, expenses, or net worth of the 71031
facilities other than that financial information already contained 71032
in those portions of the medicare or medicaid cost report that is 71033
necessary for the department of health to certify the per diem 71034
cost under section 3701.62 of the Revised Code. The rules may 71035
require the reporting of information in the following categories: 71036

(1) Information needed to identify and classify the 71037
institution; 71038

(2) Information on facilities and type and volume of services 71039

provided by the institution; 71040

(3) The number of beds listed by category of care provided; 71041

(4) The number of licensed or certified professional 71042
employees by classification; 71043

(5) The number of births that occurred at the institution the 71044
previous calendar year; 71045

(6) Any other information that the council considers relevant 71046
to the safety of patients served by the institution. 71047

Every hospital and dispensary, public or private, annually 71048
shall register with and report to the department of health. 71049
Reports shall be submitted in the manner prescribed in rules 71050
adopted under this division. 71051

(B) Every governmental entity or private nonprofit 71052
corporation or association whose employees or representatives are 71053
defined as residents' rights advocates under divisions (E)(1) and 71054
(2) of section 3721.10 ~~or division (A)(10) of section 3722.01~~ of 71055
the Revised Code shall register with the department of health on 71056
forms furnished by the director of health and shall provide such 71057
reasonable identifying information as the director may prescribe. 71058

The department shall compile a list of the governmental 71059
entities, corporations, or associations registering under this 71060
division and shall update the list annually. Copies of the list 71061
shall be made available to nursing home administrators as defined 71062
in division (C) of section 3721.10 of the Revised Code and to 71063
adult care facility managers as defined in section ~~3722.01~~ 5119.70 71064
of the Revised Code. 71065

Sec. 3701.61. (A) The department of health shall establish 71066
the help me grow program ~~for the purpose of encouraging to~~ 71067
encourage early prenatal and well-baby care, provide parenting 71068
education to promote the comprehensive health and development of 71069

children, and provide early intervention services in accordance 71070
with part C of the "Individuals with Disabilities Education Act," 71071
118 Stat. 2744 (2004), 20 U.S.C. 1431 et seq. The program shall 71072
include ~~distributing subsidies to counties to provide the~~ 71073
following services: 71074

(1) ~~Home visiting~~ Home visiting services to ~~newborn infants~~ 71075
~~and their families with a pregnant woman or an infant or toddler~~ 71076
under three years of age who meet the eligibility requirements 71077
established in rules adopted under this section; 71078

(2) ~~Services~~ Part C early intervention services to infants 71079
and toddlers under three years of age who ~~are at risk for, or who~~ 71080
~~have, a developmental delay or disability and their families meet~~ 71081
the eligibility requirements established in rules adopted under 71082
this section. 71083

(B) ~~The department shall not provide home visiting services~~ 71084
~~under the help me grow program unless requested in writing by a~~ 71085
~~parent of the infant or toddler~~ director of health may enter into 71086
an interagency agreement with one or more state agencies to 71087
implement the help me grow program and ensure coordination of 71088
early childhood programs. 71089

(C) The director may distribute help me grow program funds 71090
through contracts, grants, or subsidies to entities providing 71091
services under the program. 71092

(D) To the extent funds are available, the department shall 71093
establish a system of payment to providers of home visiting and 71094
part C early intervention services. 71095

~~(C)~~(E) As a condition of receiving payments for home visiting 71096
services, providers shall report to the director data on the 71097
program performance indicators that are used to assess progress 71098
toward achieving the goals of the program. The report shall 71099
include data on the performance indicator of birth outcomes, 71100

including risk indicators of low birth weight and preterm births, 71101
and data on all other performance indicators specified in rules 71102
adopted under this section. The providers shall report the data in 71103
the format and within the time frames specified in the rules. 71104

The director shall prepare an annual report on the data 71105
received from the providers. 71106

(F) Pursuant to Chapter 119. of the Revised Code, the 71107
department director shall adopt rules that are necessary and 71108
proper to implement this section. The rules shall specify all of 71109
the following: 71110

(1) Eligibility requirements for home visiting services and 71111
part C early intervention services; 71112

(2) Eligibility requirements for providers of home visiting 71113
services and providers of part C early intervention services; 71114

(3) Standards and procedures for the provision of program 71115
services, including data collection, program monitoring, and 71116
program evaluation; 71117

(4) Procedures for appealing the denial of an application for 71118
program services or the termination of services; 71119

(5) Procedures for appealing the denial of an application to 71120
become a provider of program services or the termination of the 71121
department's approval of a provider; 71122

(6) Procedures for addressing complaints; 71123

(7) The program performance indicators on which data must be 71124
reported by providers of home visiting services under division (E) 71125
of this section, which, to the extent possible, shall be 71126
consistent with federal reporting requirements for federally 71127
funded home visiting services; 71128

(8) The format in which reports must be submitted under 71129
division (E) of this section and the time frames within which the 71130

<u>reports must be submitted;</u>	71131
<u>(9) Criteria for payment of approved providers of program services;</u>	71132
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<u>(10) Any other rules necessary to implement the program.</u>	71134
<u>(G) A family enrolled in the help me grow at-risk program on the effective date of this amendment shall be eligible for at-risk services until December 31, 2013, or until the eligible child reaches three years of age, whichever occurs first.</u>	71135
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Sec. 3701.74. (A) As used in this section and section 3701.741 of the Revised Code:	71139
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(1) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. "Ambulatory care facility" does not include the private office of a physician or dentist, whether the office is for an individual or group practice.	71141
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(2) "Chiropractor" means an individual licensed under Chapter 4734. of the Revised Code to practice chiropractic.	71151
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(3) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.	71153
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(4) "Health care practitioner" means all of the following:	71156
(a) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;	71157
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(b) A registered or licensed practical nurse licensed under	71159

Chapter 4723. of the Revised Code;	71160
(c) An optometrist licensed under Chapter 4725. of the Revised Code;	71161 71162
(d) A dispensing optician, spectacle dispensing optician, contact lens dispensing optician, or spectacle-contact lens dispensing optician licensed under Chapter 4725. of the Revised Code;	71163 71164 71165 71166
(e) A pharmacist licensed under Chapter 4729. of the Revised Code;	71167 71168
(f) A physician;	71169
(g) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;	71170 71171
(h) A practitioner of a limited branch of medicine issued a certificate under Chapter 4731. of the Revised Code;	71172 71173
(i) A psychologist licensed under Chapter 4732. of the Revised Code;	71174 71175
(j) A chiropractor;	71176
(k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;	71177 71178
(l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;	71179 71180
(m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;	71181 71182
(n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;	71183 71184
(o) A professional clinical counselor, professional counselor, social worker, or independent social worker licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;	71185 71186 71187 71188

(p) A dietitian licensed under Chapter 4759. of the Revised Code; 71189
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(q) A respiratory care professional licensed under Chapter 4761. of the Revised Code; 71191
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(r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code. 71193
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(5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner. 71196
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(6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code. 71199
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(7) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; an adult care facility, as defined in section ~~3722.01~~ 5119.70 of the Revised Code; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section 5111.20 of the Revised Code; a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended. 71201
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(8) "Medical record" means data in any form that pertains to a patient's medical history, diagnosis, prognosis, or medical condition and that is generated and maintained by a health care provider in the process of the patient's health care treatment. 71210
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(9) "Medical records company" means a person who stores, locates, or copies medical records for a health care provider, or is compensated for doing so by a health care provider, and charges a fee for providing medical records to a patient or patient's representative. 71214
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- (10) "Patient" means either of the following: 71219
- (a) An individual who received health care treatment from a health care provider; 71220
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- (b) A guardian, as defined in section 1337.11 of the Revised Code, of an individual described in division (A)(10)(a) of this section. 71222
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- (11) "Patient's personal representative" means a minor patient's parent or other person acting in loco parentis, a court-appointed guardian, or a person with durable power of attorney for health care for a patient, the executor or administrator of the patient's estate, or the person responsible for the patient's estate if it is not to be probated. "Patient's personal representative" does not include an insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state, a health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code, or any other person not named in this division. 71225
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- (12) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code. 71237
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- (13) "Physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery. 71239
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- (14) "Authorized person" means a person to whom a patient has given written authorization to act on the patient's behalf regarding the patient's medical record. 71243
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- (B) A patient, a patient's personal representative or an authorized person who wishes to examine or obtain a copy of part or all of a medical record shall submit to the health care provider a written request signed by the patient, personal 71246
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representative, or authorized person dated not more than one year 71250
before the date on which it is submitted. The request shall 71251
indicate whether the copy is to be sent to the requestor, 71252
physician or chiropractor, or held for the requestor at the office 71253
of the health care provider. Within a reasonable time after 71254
receiving a request that meets the requirements of this division 71255
and includes sufficient information to identify the record 71256
requested, a health care provider that has the patient's medical 71257
records shall permit the patient to examine the record during 71258
regular business hours without charge or, on request, shall 71259
provide a copy of the record in accordance with section 3701.741 71260
of the Revised Code, except that if a physician or chiropractor 71261
who has treated the patient determines for clearly stated 71262
treatment reasons that disclosure of the requested record is 71263
likely to have an adverse effect on the patient, the health care 71264
provider shall provide the record to a physician or chiropractor 71265
designated by the patient. The health care provider shall take 71266
reasonable steps to establish the identity of the person making 71267
the request to examine or obtain a copy of the patient's record. 71268

(C) If a health care provider fails to furnish a medical 71269
record as required by division (B) of this section, the patient, 71270
personal representative, or authorized person who requested the 71271
record may bring a civil action to enforce the patient's right of 71272
access to the record. 71273

(D)(1) This section does not apply to medical records whose 71274
release is covered by section 173.20 or 3721.13 of the Revised 71275
Code, by Chapter 1347. or 5122. of the Revised Code, by 42 C.F.R. 71276
part 2, "Confidentiality of Alcohol and Drug Abuse Patient 71277
Records," or by 42 C.F.R. 483.10. 71278

(2) Nothing in this section is intended to supersede the 71279
confidentiality provisions of sections 2305.24, 2305.25, 2305.251, 71280
and 2305.252 of the Revised Code. 71281

Sec. 3701.83. (A) There is hereby created in the state 71282
treasury the general operations fund. Moneys in the fund shall be 71283
used for the purposes specified in sections 3701.04, 3701.344, 71284
3702.20, 3710.15, 3711.16, 3717.45, 3718.06, 3721.02, ~~3722.04~~, 71285
3729.07, ~~3733.04~~, ~~3733.25~~, ~~3733.43~~, 3748.04, 3748.05, 3748.07, 71286
3748.12, 3748.13, 3749.04, 3749.07, 4747.04, 4751.04, and 4769.09 71287
of the Revised Code. 71288

(B) The alcohol testing program fund is hereby created in the 71289
state treasury. The director of health shall use the fund to 71290
administer and enforce the alcohol testing and permit program 71291
authorized by section 3701.143 of the Revised Code. 71292

The fund shall receive transfers from the liquor control fund 71293
created under section 4301.12 of the Revised Code. All investment 71294
earnings of the alcohol testing program fund shall be credited to 71295
the fund. 71296

Sec. 3702.59. (A) The director of health shall accept for 71297
review certificate of need applications as provided in sections 71298
3702.592, 3702.593, and 3702.594 of the Revised Code. 71299

(B)(1) The director shall not approve an application for a 71300
certificate of need for the addition of long-term care beds to an 71301
existing health care facility or for the development of a new 71302
health care facility if any of the following apply: 71303

(a) The existing health care facility in which the beds are 71304
being placed has one or more waivers for life safety code 71305
deficiencies, one or more state fire code violations, or one or 71306
more state building code violations, and the project identified in 71307
the application does not propose to correct all life safety code 71308
deficiencies for which a waiver has been granted, all state fire 71309
code violations, and all state building code violations at the 71310
existing health care facility in which the beds are being placed; 71311

(b) During the sixty-month period preceding the filing of the application, a notice of proposed license revocation was issued under section 3721.03 of the Revised Code for the existing health care facility in which the beds are being placed or a nursing home owned or operated by the applicant or a principal participant.

(c) During the period that precedes the filing of the application and is encompassed by the three most recent standard surveys of the existing health care facility in which the beds are being placed, any of the following occurred:

(i) The facility was cited on three or more separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies.

(ii) The facility was cited on two or more separate occasions for final, nonappealable immediate jeopardy deficiencies.

(iii) The facility was cited on two separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies and on one occasion for a final, nonappealable immediate jeopardy deficiency.

(d) More than two nursing homes owned or operated in this state by the applicant or a principal participant or, if the applicant or a principal participant owns or operates more than twenty nursing homes in this state, more than ten per cent of those nursing homes, were each cited during the period that precedes the filing of the application for the certificate of need and is encompassed by the three most recent standard surveys of the nursing homes that were so cited in any of the following manners:

(i) On three or more separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies;

(ii) On two or more separate occasions for final, nonappealable immediate jeopardy deficiencies;

(iii) On two separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies and on one occasion for a final, nonappealable immediate jeopardy deficiency.

(2) In applying divisions (B)(1)(a) to (d) of this section, the director shall not consider deficiencies or violations cited before the applicant or a principal participant acquired or began to own or operate the health care facility at which the deficiencies or violations were cited. The director may disregard deficiencies and violations cited after the health care facility was acquired or began to be operated by the applicant or a principal participant if the deficiencies or violations were attributable to circumstances that arose under the previous owner or operator and the applicant or principal participant has implemented measures to alleviate the circumstances. In the case of an application proposing development of a new health care facility by relocation of beds, the director shall not consider deficiencies or violations that were solely attributable to the physical plant of the existing health care facility from which the beds are being relocated.

(C) The director also shall accept for review any application for the conversion of infirmary beds to long-term care beds if the infirmary meets all of the following conditions:

(1) Is operated exclusively by a religious order;

(2) Provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related;

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

~~At no time shall individuals other than those described in division (C)(2) of this section be admitted to a facility to use beds for which a certificate of need is approved under this~~

~~division.~~ 71374

(D) Notwithstanding division (C)(2) of this section, a facility that has been granted a certificate of need under division (C) of this section may provide care to any of the following family members of the individuals described in division (C)(2) of this section: mothers, fathers, brothers, sisters, brothers-in-law, sisters-in-law, or children. 71375
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The long-term care beds in a facility that have been granted a certificate of need under division (C) of this section may not be relocated pursuant to sections 3702.592 to 3702.594 of the Revised Code. 71381
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Sec. 3704.06. (A) The attorney general, upon the request of the director of environmental protection, shall prosecute any person who violates section 3704.05 or 3704.16 of the Revised Code. 71385
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(B) The attorney general, upon request of the director, shall bring an action for an injunction, a civil penalty, or any other appropriate proceedings in any court of competent jurisdiction against any person violating or threatening to violate section 3704.05 or 3704.16 of the Revised Code. The court shall have jurisdiction to grant prohibitory and mandatory injunctive relief and to require payment of a civil penalty upon the showing that ~~such~~ the person has violated this chapter or rules adopted thereunder. 71389
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(C) A person who violates section 3704.05 or 3704.16 of the Revised Code shall pay a civil penalty of not more than twenty-five thousand dollars for each day of each violation. This division does not apply to any requirement of this chapter regarding the prevention or abatement of odors. 71398
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(D) One-half of the moneys collected as civil penalties under 71403

division (C) of this section shall be credited to the 71404
environmental education fund created in section 3745.22 of the 71405
Revised Code. The remainder of the moneys so collected shall be 71406
credited to the air pollution control administration fund, which 71407
is hereby created in the state treasury. The air pollution control 71408
administration fund shall be administered by the director. Moneys 71409
in the air pollution control administration fund shall be used to 71410
supplement other moneys available for the administration and 71411
enforcement of this chapter and the rules adopted and terms and 71412
conditions of orders and permits issued under it, including, 71413
without limitation, the issuance of permits under it, and shall 71414
not be used to satisfy any state matching fund requirements for 71415
the receipt of any federal grant funds. 71416

The director may expend not more than ~~seven~~ one million five 71417
hundred ~~fifty~~ thousand dollars of the moneys credited to the air 71418
pollution control administration fund under this division in any 71419
fiscal year for the purposes specified in this division. The 71420
director may request authority from the controlling board to 71421
expend any moneys credited to that fund in any fiscal year in 71422
excess of that amount. 71423

(E) Upon written complaint by any person, the director shall 71424
conduct such investigations and make such inquiries as are 71425
necessary to secure compliance with this chapter. The director, 71426
upon complaint or upon ~~his~~ the director's own initiative, may 71427
investigate or make inquiries into any alleged violation or act of 71428
air pollution. 71429

Sec. 3704.14. (A)(1) If the director of environmental 71430
protection determines that implementation of a motor vehicle 71431
inspection and maintenance program is necessary for the state to 71432
effectively comply with the federal Clean Air Act after June 30, 71433
~~2009~~ 2011, the director may provide for the implementation of the 71434

program in those counties in this state in which such a program is 71435
federally mandated. Upon making such a determination, the director 71436
of environmental protection may request the director of 71437
administrative services to extend the terms of the contract that 71438
was entered into under the authority of ~~Section 7~~ of Am. Sub. H.B. 71439
~~24~~ 1 of the ~~127th~~ 128th general assembly. Upon receiving the 71440
request, the director of administrative services shall extend the 71441
contract, beginning on July 1, ~~2009~~ 2011, in accordance with this 71442
section. The contract shall be extended for a period of up to ~~six~~ 71443
twelve months with the contractor who conducted the motor vehicle 71444
inspection and maintenance program under that contract. 71445

(2) Prior to the expiration of the contract extension that is 71446
authorized by division (A)(1) of this section, the director of 71447
environmental protection ~~may~~ shall request the director of 71448
administrative services to enter into a contract with a vendor to 71449
operate a decentralized motor vehicle inspection and maintenance 71450
program in each county in this state in which such a program is 71451
federally mandated through June 30, ~~2011~~ 2015, with an option for 71452
the state to renew the contract through June 30, ~~2012~~ 2017. The 71453
contract shall ensure that the decentralized motor vehicle 71454
inspection and maintenance program achieves at least the same 71455
~~ozone precursor~~ emission reductions as achieved by the program 71456
operated under the authority of the contract that was extended 71457
under division (A)(1) of this section. The director of 71458
administrative services shall select a vendor through a 71459
competitive selection process in compliance with Chapter 125. of 71460
the Revised Code. 71461

(3) Notwithstanding any law to the contrary, the director of 71462
administrative services shall ensure that a competitive selection 71463
process regarding a contract to operate a decentralized motor 71464
vehicle inspection and maintenance program in this state 71465
incorporates the following ~~elements~~, which shall be included in 71466

the contract: 71467

(a) A For purposes of expanding the number of testing locations for consumer convenience, a requirement that the vendor utilize established local businesses, auto repair facilities, or leased properties to operate state-approved inspection and maintenance testing facilities; 71468
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(b) A requirement that the vendor selected to operate the 71473
program provide notification of the program's requirements to each 71474
owner of a motor vehicle that is required to be inspected under 71475
the program. The contract shall require the notification to be 71476
provided not later than sixty days prior to the date by which the 71477
owner of the motor vehicle is required to have the motor vehicle 71478
inspected. The director of environmental protection and the vendor 71479
shall jointly agree on the content of the notice. However, the 71480
notice shall include at a minimum the locations of all inspection 71481
facilities within a specified distance of the address that is 71482
listed on the owner's motor vehicle registration; 71483

(c) A requirement that the vendor comply with testing methodology and supply the required equipment approved by the director of environmental protection as specified in the competitive selection process in compliance with Chapter 125. of the Revised Code. 71484
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(4) A decentralized motor vehicle inspection and maintenance 71489
program operated under this section shall comply with division (B) 71490
of this section. The director of environmental protection shall 71491
administer the decentralized motor vehicle inspection and 71492
maintenance program operated under this section. 71493

(B) The decentralized motor vehicle inspection and 71494
maintenance program authorized by this section, at a minimum, 71495
shall do all of the following: 71496

(1) Comply with the federal Clean Air Act; 71497

(2) Provide for the issuance of inspection certificates; 71498

(3) Provide for a new car exemption for motor vehicles four 71499
years old or newer and provide that a new motor vehicle is exempt 71500
for four years regardless of whether legal title to the motor 71501
vehicle is transferred during that period. 71502

~~(C) A motor vehicle inspection and maintenance program shall 71503
not be implemented in any county in which such a program is not 71504
authorized under division (A) of this section without the approval 71505
of the general assembly through the enactment of legislation. 71506
Further, a motor vehicle inspection and maintenance program shall 71507
not be implemented in any county beyond June 30, 2012, without the 71508
approval of the general assembly through the enactment of 71509
legislation. 71510~~

~~(D)~~ The director of environmental protection shall adopt 71511
rules in accordance with Chapter 119. of the Revised Code that the 71512
director determines are necessary to implement this section. The 71513
director may continue to implement and enforce rules pertaining to 71514
the motor vehicle inspection and maintenance program previously 71515
implemented under former section 3704.14 of the Revised Code as 71516
that section existed prior to its repeal and reenactment by Am. 71517
Sub. H.B. 66 of the 126th general assembly, provided that the 71518
rules do not conflict with this section. 71519

~~(E)~~(D) There is hereby created in the state treasury the auto 71520
emissions test fund, which shall consist of money received by the 71521
director from any cash transfers, state and local grants, and 71522
other contributions that are received for the purpose of funding 71523
the program established under this section. The director of 71524
environmental protection shall use money in the fund solely for 71525
the implementation, supervision, administration, operation, and 71526
enforcement of the motor vehicle inspection and maintenance 71527
program established under this section. Money in the fund shall 71528
not be used for either of the following: 71529

(1) To pay for the inspection costs incurred by a motor vehicle dealer so that the dealer may provide inspection certificates to an individual purchasing a motor vehicle from the dealer when that individual resides in a county that is subject to the motor vehicle inspection and maintenance program;

(2) To provide payment for more than one free passing emissions inspection or a total of three emissions inspections for a motor vehicle in any three-hundred-sixty-five day period. The owner or lessee of a motor vehicle is responsible for inspection fees that are related to emissions inspections beyond one free passing emissions inspection or three total emissions inspections in any three-hundred-sixty-five day period. Inspection fees that are charged by a contractor conducting emissions inspections under a motor vehicle inspection and maintenance program shall be approved by the director of environmental protection.

~~(F)~~(E) The motor vehicle inspection and maintenance program established under this section expires upon the termination of all contracts entered into under this section and shall not be implemented beyond the final date on which termination occurs.

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

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

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

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

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

(b) Replacement of a birth certificate following an adoption, 71560
legitimation, paternity determination or acknowledgement, or court 71561
order; 71562

(c) Filing of a delayed registration of a vital record; 71563

(d) Amendment of a vital record that is requested later than 71564
one year after the filing date of the vital record; 71565

(e) Any other documents or services for which the public 71566
health council considers the charging of a fee appropriate. 71567

(2) Fees prescribed under division (A)(1)(a) of this section 71568
shall not be less than twelve dollars. 71569

(3) Fees prescribed under division (A)(1) of this section 71570
shall be collected in addition to any fees required by sections 71571
3109.14 and 3705.242 of the Revised Code. 71572

(4) Fees prescribed under division (A) of this section shall 71573
not apply to certifications issued under division (H) of this 71574
section or copies provided under section 3705.241 of the Revised 71575
Code. 71576

(B) In addition to the fees prescribed under division (A) of 71577
this section or section 3709.09 of the Revised Code, the office of 71578
vital statistics ~~or~~, the board of health of a city or general 71579
health district, or a local registrar of vital statistics who is 71580
not a salaried employee of a city or general health district shall 71581
charge a five-dollar fee for each certified copy of a vital record 71582
and each certification of birth. This fee shall be deposited in 71583
the general operations fund created under section 3701.83 of the 71584
Revised Code and be used to support the operations, the 71585
modernization, and the automation of the vital records program in 71586
this state. A board of health or a local registrar shall forward 71587
all fees collected under this division to the department of health 71588
not later than thirty days after the end of each calendar quarter. 71589

(C) Except as otherwise provided in division (H) of this section, and except as provided in section 3705.241 of the Revised Code, fees collected by the director of health under sections 3705.01 to 3705.29 of the Revised Code shall be paid into the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. Except as provided in division (B) or (I) of this section, money generated by the fees shall be used only for administration and enforcement of this chapter and the rules adopted under it. Amounts submitted to the department of health for copies of vital records or services in excess of the fees imposed by this section shall be dealt with as follows:

(1) An overpayment of two dollars or less shall be retained by the department and deposited in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code.

(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment.

(D) If a local registrar is a salaried employee of a city or a general health district, any fees the local registrar receives pursuant to section 3705.23 of the Revised Code shall be paid into the general fund of the city or the health fund of the general health district.

Each local registrar of vital statistics, or each health district where the local registrar is a salaried employee of the district, shall be entitled to a fee for each birth, 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:

(1) In primary registration districts of over two hundred fifty thousand, twenty cents; 71622
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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; 71624
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(3) In primary registration districts of over fifty thousand and less than one hundred twenty-five thousand, eighty cents; 71627
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(4) In primary registration districts of less than fifty thousand, one dollar. 71629
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(E) The director of health shall annually certify to the county treasurers of the several counties the number of birth, fetal death, death, and military service certificates registered from their respective counties with the names of the local registrars and the amounts due each registrar and health district at the rates fixed in this section. Such amounts shall be paid by the treasurer of the county in which the registration districts are located. No fees shall be charged or collected by registrars except as provided by this chapter and section 3109.14 of the Revised Code. 71631
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(F) A probate judge shall be paid a fee of fifteen cents for each certified abstract of marriage prepared and forwarded by the probate judge to the department of health pursuant to section 3705.21 of the Revised Code. The fee shall be in addition to the fee paid for a marriage license and shall be paid by the applicants for the license. 71641
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(G) The clerk of a court of common pleas shall be paid a fee of one dollar for each certificate of divorce, dissolution, and annulment of marriage prepared and forwarded by the clerk to the department pursuant to section 3705.21 of the Revised Code. The fee for the certified abstract of divorce, dissolution, or annulment of marriage shall be added to the court costs allowed in 71647
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these cases. 71653

(H) The fee for an heirloom certification of birth issued 71654
pursuant to division (B)(2) of section 3705.23 of the Revised Code 71655
shall be an amount prescribed by rule by the director of health 71656
plus any fee required by section 3109.14 of the Revised Code. In 71657
setting the amount of the fee, the director shall establish a 71658
surcharge in addition to an amount necessary to offset the expense 71659
of processing heirloom certifications of birth. The fee prescribed 71660
by the director of health pursuant to this division shall be 71661
deposited into the state treasury to the credit of the heirloom 71662
certification of birth fund which is hereby created. Money 71663
credited to the fund shall be used by the office of vital 71664
statistics to offset the expense of processing heirloom 71665
certifications of birth. However, the money collected for the 71666
surcharge, subject to the approval of the controlling board, shall 71667
be used for the purposes specified by the family and children 71668
first council pursuant to section 121.37 of the Revised Code. 71669

(I)(1) Four dollars of each fee collected by ~~the director of~~ 71670
~~health or~~ the board of health of a city or general health district 71671
~~for an item or service described in division (A)(1)(a) of this~~ 71672
~~section~~ a certified copy of a vital record or a certification of 71673
birth shall be transferred to the office of vital statistics not 71674
later than thirty days after the end of each calendar quarter and 71675
shall be used to support public health systems. Of each four 71676
dollars collected, one dollar shall be used by the director of 71677
health to pay subsidies to boards of health. The subsidies shall 71678
be distributed in accordance with the same formula established 71679
under section 3701.342 of the Revised Code for the distribution of 71680
state health district subsidy funds to boards of health and local 71681
health departments. 71682

(2) Four dollars of each fee collected by a local registrar 71683
of vital statistics who is not a salaried employee of a city or 71684

general health district, for a certified copy of a vital record or 71685
certification of birth, shall be transferred to the office of 71686
vital statistics not later than thirty days after the end of each 71687
calendar quarter and shall be used to support public health 71688
systems. 71689

Sec. 3709.085. (A) The board of health of a city or general 71690
health district may enter into a contract with any political 71691
subdivision or other governmental agency to obtain or provide all 71692
or part of any services, including, but not limited to, 71693
enforcement services, for the purposes of Chapter 3704. of the 71694
Revised Code, the rules adopted and orders made pursuant thereto, 71695
or any other ordinances or rules for the prevention, control, and 71696
abatement of air pollution. 71697

(B)(1) As used in division (B)(2) of this section: 71698

(a) "Semipublic disposal system" means a disposal system that 71699
treats the sanitary sewage discharged from publicly or privately 71700
owned buildings or places of assemblage, entertainment, 71701
recreation, education, correction, hospitalization, housing, or 71702
employment, but does not include a disposal system that treats 71703
sewage in amounts of more than twenty-five thousand gallons per 71704
day; a disposal system for the treatment of sewage that is exempt 71705
from the requirements of section 6111.04 of the Revised Code 71706
pursuant to division (F)(7) of that section; or a disposal system 71707
for the treatment of industrial waste. 71708

(b) Terms defined in section 6111.01 of the Revised Code have 71709
the same meanings as in that section. 71710

(2) The board of health of a city or general health district 71711
may enter into a contract with the environmental protection agency 71712
to conduct on behalf of the agency inspection or enforcement 71713
services, for the purposes of Chapter 6111. of the Revised Code 71714
and rules adopted thereunder, for the disposal or treatment of 71715

sewage from semipublic disposal systems. The board of health of a 71716
city or general health district may charge a fee established 71717
pursuant to section 3709.09 of the Revised Code to be paid by the 71718
owner or operator of a semipublic disposal system for inspections 71719
conducted by the board pursuant to a contract entered into under 71720
division (B)(2) of this section, except that the board shall not 71721
charge a fee for those inspections conducted at any recreational 71722
vehicle park, recreation camp, or combined park-camp that is 71723
licensed under section 3729.05 of the Revised Code or at any 71724
manufactured home park that is licensed under section ~~3733.03~~ 71725
4781.26 of the Revised Code. 71726

Sec. 3709.09. (A) The board of health of a city or general 71727
health district may, by rule, establish a uniform system of fees 71728
to pay the costs of any services provided by the board. 71729

The fee for issuance of a certified copy of a vital record or 71730
a certification of birth shall not be less than the fee prescribed 71731
for the same service under division (A)(1) of section 3705.24 of 71732
the Revised Code and shall include the fees required by division 71733
(B) of section 3705.24 and section 3109.14 of the Revised Code. 71734

Fees for services provided by the board for purposes 71735
specified in sections 3701.344, 3711.10, 3718.06, 3729.07, 71736
3730.03, ~~3733.04, 3733.25~~ 3733.21, and 3749.04 of the Revised Code 71737
shall be established in accordance with rules adopted under 71738
division (B) of this section. The district advisory council, in 71739
the case of a general health district, and the legislative 71740
authority of the city, in the case of a city health district, may 71741
disapprove any fee established by the board of health under this 71742
division, and any such fee, as disapproved, shall not be charged 71743
by the board of health. 71744

(B) The public health council shall adopt rules under section 71745
111.15 of the Revised Code that establish fee categories and a 71746

uniform methodology for use in calculating the costs of services 71747
provided for purposes specified in sections 3701.344, 3711.10, 71748
3718.06, 3729.07, 3730.03, ~~3733.04, 3733.25~~ 3733.21, and 3749.04 71749
of the Revised Code. In adopting the rules, the public health 71750
council shall consider recommendations it receives from advisory 71751
boards established either by statute or the director of health for 71752
entities subject to the fees. 71753

(C) Except when a board of health establishes a fee by 71754
adopting a rule as an emergency measure, the board of health shall 71755
hold a public hearing regarding each proposed fee for a service 71756
provided by the board for a purpose specified in section 3701.344, 71757
3711.10, 3718.06, 3729.07, 3730.03, ~~3733.04, 3733.25~~ 3733.21, or 71758
3749.04 of the Revised Code. If a public hearing is held, at least 71759
twenty days prior to the public hearing the board shall give 71760
written notice of the hearing to each entity affected by the 71761
proposed fee. The notice shall be mailed to the last known address 71762
of each entity and shall specify the date, time, and place of the 71763
hearing and the amount of the proposed fee. 71764

(D) If payment of a fee established under this section is not 71765
received by the day on which payment is due, the board of health 71766
shall assess a penalty. The amount of the penalty shall be equal 71767
to twenty-five per cent of the applicable fee. 71768

(E) All rules adopted by a board of health under this section 71769
shall be adopted, recorded, and certified as are ordinances of 71770
municipal corporations and the record thereof shall be given in 71771
all courts the same effect as is given such ordinances, but the 71772
advertisements of such rules shall be by publication in one 71773
newspaper of general circulation within the health district. 71774
Publication shall be made once a week for two consecutive weeks or 71775
as provided in section 7.16 of the Revised Code, and such rules 71776
shall take effect and be in force ten days from the date of the 71777
first publication. 71778

Sec. 3709.092. (A) A board of health of a city or general health district shall transmit to the director of health all fees or additional amounts that the public health council requires to be collected under sections 3701.344, 3718.06, 3729.07, ~~3733.04,~~ ~~3733.25,~~ and 3749.04 of the Revised Code. The fees and amounts shall be transmitted according to the following schedule:

(1) For fees and amounts received by the board on or after the first day of January but not later than the thirty-first day of March, transmit the fees and amounts not later than the fifteenth day of May;

(2) For fees and amounts received by the board on or after the first day of April but not later than the thirtieth day of June, transmit the fees and amounts not later than the fifteenth day of August;

(3) For fees and amounts received by the board on or after the first day of July but not later than the thirtieth day of September, transmit the fees and amounts not later than the fifteenth day of November;

(4) For fees and amounts received by the board on or after the first day of October but not later than the thirty-first day of December, transmit the fees and amounts not later than the fifteenth day of February of the following year.

(B) The director shall deposit the fees and amounts received under this section into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. Each amount shall be used solely for the purpose for which it was collected.

Sec. 3709.21. The board of health of a general health district may make such orders and regulations as are necessary for its own government, for the public health, the prevention or

restriction of disease, and the prevention, abatement, or 71809
suppression of nuisances. Such board may require that no human, 71810
animal, or household wastes from sanitary installations within the 71811
district be discharged into a storm sewer, open ditch, or 71812
watercourse without a permit therefor having been secured from the 71813
board under such terms as the board requires. All orders and 71814
regulations not for the government of the board, but intended for 71815
the general public, shall be adopted, recorded, and certified as 71816
are ordinances of municipal corporations and the record thereof 71817
shall be given in all courts the same effect as is given such 71818
ordinances, but the advertisements of such orders and regulations 71819
shall be by publication in ~~one~~ a newspaper published and of 71820
general circulation within the district. Publication shall be made 71821
once a week for two consecutive weeks or as provided in section 71822
7.16 of the Revised Code, and such orders and regulations shall 71823
take effect and be in force ten days from the date of the first 71824
publication. In cases of emergency caused by epidemics of 71825
contagious or infectious diseases, or conditions or events 71826
endangering the public health, the board may declare such orders 71827
and regulations to be emergency measures, and such orders and 71828
regulations shall become effective immediately without such 71829
advertising, recording, and certifying. 71830

Sec. 3709.341. The board of county commissioners may donate 71831
or sell property, buildings, and furnishings to any board of 71832
health of a general or combined health district. Upon acceptance 71833
by the board of health of the general or combined district, the 71834
board of county commissioners may convey the property, buildings, 71835
and furnishings to the board of health to be used as quarters by 71836
the board of health. The instrument conveying the property, 71837
buildings, and furnishings shall include a reverter clause that, 71838
in the event the board of health subsequently sells the property, 71839
buildings, and furnishings: 71840

(A) Reverts the property, buildings, and furnishings to the board of county commissioners if they initially were donated by the board of county commissioners; or 71841
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(B) Specifies how the proceeds of the board of health's subsequent sale of the property, buildings, and furnishings shall be distributed, if they initially were sold by the board of county commissioners. 71844
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Sec. 3717.01. As used in this chapter: 71848

(A) "Ohio uniform food safety code" means the food safety and related standards adopted under section 3717.05 of the Revised Code. 71849
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(B) "Food" means any raw, cooked, or processed edible substance used or intended for use in whole or in part for human consumption. "Food" includes ice, water or any other beverage, food ingredients, and chewing gum. 71852
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(C) "Retail food establishment" means a premises or part of a premises where food is stored, processed, prepared, manufactured, or otherwise held or handled for retail sale. Except when expressly provided otherwise, "retail food establishment" includes a mobile retail food establishment, seasonal retail food establishment, and temporary retail food establishment. 71856
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As used in this division: 71862

(1) "Retail" means the sale of food to a person who is the ultimate consumer. 71863
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(2) "Prepared" means any action that affects a food, including receiving and maintaining it at the temperature at which it was received. 71865
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(D) "Seasonal retail food establishment" means a retail food establishment, other than a mobile retail food establishment, that is operated for not more than six months in a licensing period. 71868
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(E) "Temporary retail food establishment" means a retail food establishment that is operated at an event for not more than five consecutive days, except when operated for more than five consecutive days pursuant to division (E)(2) of section 3717.23 of the Revised Code.

(F) "Food service operation" means a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation. As used in this division, "served" means a response made to an order for one or more individual portions of food in a form that is edible without washing, cooking, or additional preparation and "prepared" means any action that affects a food other than receiving or maintaining it at the temperature at which it was received.

Except when expressly provided otherwise, "food service operation" includes a catering food service operation, food delivery sales operation, mobile food service operation, seasonal food service operation, temporary food service operation, and vending machine location.

(G) "Catering food service operation" means a food service operation where food is prepared for serving at a function or event held at an off-premises site, for a charge determined on a per-function or per-event basis.

(H) "Food delivery sales operation" means a food service operation from which individual portions of food are ordered by a customer, prepared at another food service operation or a retail food establishment, and delivered to the customer by a person other than an employee of the food service operation or retail food establishment that prepared the food.

(I) "Mobile food service operation" means a food service operation that is operated from a movable vehicle, portable

structure, or watercraft and that routinely changes location, 71902
except that if the operation remains at any one location for more 71903
than forty consecutive days, the operation is no longer a mobile 71904
food service operation. "Mobile food service operation" includes a 71905
food service operation that does not remain at any one location 71906
for more than forty consecutive days and serves, in a manner 71907
consistent with division (F) of this section, only frozen 71908
desserts; beverages, nuts, popcorn, candy, or similar confections; 71909
bakery products identified in section 911.01 of the Revised Code; 71910
or any combination of those items. 71911

(J) "Seasonal food service operation" means a food service 71912
operation, other than a mobile food service operation, that is 71913
operated for not more than six months in a licensing period. 71914

(K) "Temporary food service operation" means a food service 71915
operation that is operated at an event for not more than five 71916
consecutive days, except when operated for more than five 71917
consecutive days pursuant to division (E)(2) of section 3717.43 of 71918
the Revised Code. 71919

(L) "Vending machine location" means an area or room where 71920
one or more vending machines are installed and operated, except 71921
that if the machines within an area are separated by more than one 71922
hundred fifty feet, each area separated by that distance 71923
constitutes a separate vending machine location. As used in this 71924
division, "vending machine" means a both of the following: 71925

(1) A self-service device that automatically dispenses on the 71926
insertion of currency, tokens, or similar means a predetermined 71927
unit serving of food, either in bulk or in package, without having 71928
to be replenished after each use; 71929

(2) A self-service device at which an individual purchases a 71930
predetermined unit serving of food, either in bulk or in package, 71931
by scanning the bar code of the food that was obtained at the 71932

<u>vending machine location.</u>	71933
(M) "Board of health" means a board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code.	71934 71935 71936
(N) "Government entity" means this state, a political subdivision of this state, another state, or a political subdivision or other local government body of another state.	71937 71938 71939
(O) "Licensor" means one of the following:	71940
(1) A board of health approved under section 3717.11 of the Revised Code;	71941 71942
(2) The director of agriculture acting pursuant to section 3717.11 of the Revised Code with respect to the licensing of retail food establishments;	71943 71944 71945
(3) The director of health acting pursuant to section 3717.11 of the Revised Code with respect to the licensing of food service operations.	71946 71947 71948
(P) "Licensing period" means the first day of March to the last day of February of the next succeeding year.	71949 71950
(Q) "Mobile retail food establishment" means a retail food establishment that is operated from a movable vehicle or other portable structure, and that routinely changes location, except that if the establishment operates from any one location for more than forty consecutive days, the establishment is no longer a mobile retail food establishment.	71951 71952 71953 71954 71955 71956
(R) "Unprocessed," when used with respect to fruits and vegetables, means that the fruits and vegetables are not processed beyond merely rough trimming and rinsing.	71957 71958 71959
(S) "Cottage food production operation" has the same meaning as in division (A)(20) of section 3715.01 of the Revised Code.	71960 71961

Sec. 3717.53. (A) As used in this section: 71962

(1) "Food nutrition information" includes, but is not limited 71963
to, the caloric, fat, carbohydrate, cholesterol, fiber, sugar, 71964
potassium, protein, vitamin, mineral, allergen, and sodium content 71965
of food. "Food nutrition information" also includes the 71966
designation of food as healthy or unhealthy. 71967

(2) "Political subdivision" and "local legislation" have the 71968
same meanings as in section 905.501 of the Revised Code. 71969

(3) "Consumer incentive item" means any licensed media 71970
character, toy, game, trading card, contest, point accumulation, 71971
club membership, admission ticket, token, code or password for 71972
digital access, coupon, voucher, incentive, crayons, coloring 71973
placemat, or other premium, prize, or consumer product that is 71974
associated with a meal served by or acquired from a food service 71975
operation. 71976

(B) The director of agriculture has sole and exclusive 71977
authority in this state to regulate the provision of food 71978
nutrition information and consumer incentive items at food service 71979
operations. The director may adopt rules for that purpose in 71980
accordance with Chapter 119. of the Revised Code, including rules 71981
that establish a schedule of civil penalties for violations of 71982
this section and rules adopted under it. Subject to the approval 71983
of the joint committee on agency rule review, portions of the 71984
rules may be adopted by referencing all or any part of any federal 71985
regulations pertaining to the provision of food nutrition 71986
information and consumer incentive items. 71987

The regulation of the provision of food nutrition information 71988
and consumer incentive items at food service operations is a 71989
matter of general statewide interest that requires statewide 71990
regulation, and rules adopted under this section constitute a 71991
comprehensive plan with respect to all aspects of the regulation 71992

of the provision of food nutrition information and consumer 71993
incentive items at food service operations in this state. Rules 71994
adopted under this section shall be applied uniformly throughout 71995
this state. 71996

(C) No political subdivision shall ~~enact~~ do any of the 71997
following: 71998

(1) Enact, adopt, or continue in effect local legislation 71999
relating to the provision or nonprovision of food nutrition 72000
information or consumer incentive items at food service 72001
operations; 72002

(2) Condition a license, a permit, or regulatory approval on 72003
the provision or nonprovision of food nutrition information or 72004
consumer incentive items at food service operations; 72005

(3) Ban, prohibit, or otherwise restrict food at food service 72006
operations based on the food nutrition information or on the 72007
provision or nonprovision of consumer incentive items; 72008

(4) Condition a license, a permit, or regulatory approval for 72009
a food service operation on the existence or nonexistence of 72010
food-based health disparities; 72011

(5) Ban, prohibit, or otherwise restrict food service 72012
operations based on the existence or nonexistence of food-based 72013
health disparities. 72014

Sec. 3717.54. (A) No political subdivision shall enact, 72015
adopt, or continue in effect local legislation that bans, 72016
prohibits, or otherwise restricts a food service operation because 72017
that food service operation is characterized as a quick service or 72018
fast food restaurant. The regulation of how food service 72019
operations are characterized is a matter of general statewide 72020
interest that requires uniform statewide regulation, and this 72021
chapter and rules adopted under it constitute a comprehensive plan 72022

with respect to all aspects of food service operations in this 72023
state. 72024

(B) As used in this section, "political subdivision" and 72025
"local legislation" have the same meanings as in section 905.501 72026
of the Revised Code. 72027

Sec. 3719.141. (A) A peace officer may sell any controlled 72028
substance in the performance of the officer's official duties only 72029
if either of the following applies: 72030

(1) A peace officer may sell any controlled substance in the 72031
performance of the officer's official duties if all of the 72032
following apply: 72033

(a) Prior approval for the sale has been given by the 72034
prosecuting attorney of the county in which the sale takes place, 72035
in any manner described in division (B) of this section; 72036

(b) The peace officer who makes the sale determines that the 72037
sale is necessary in the performance of the officer's official 72038
duties; 72039

(c) Any of the following applies: 72040

(i) The person to whom the sale is made or any other person 72041
who is involved in the sale does not know that the officer who 72042
makes the sale is a peace officer, and the peace officer who makes 72043
the sale determines that the sale is necessary to prevent the 72044
person from determining or suspecting that the officer who makes 72045
the sale is a peace officer. 72046

(ii) The peace officer who makes the sale determines that the 72047
sale is necessary to preserve an identity that the peace officer 72048
who makes the sale has assumed in the performance of the officer's 72049
official duties. 72050

(iii) The sale involves a controlled substance that, during 72051

the course of another sale, was intercepted by the peace officer 72052
who makes the sale or any other peace officer who serves the same 72053
agency served by the peace officer who makes the sale; the 72054
intended recipient of the controlled substance in the other sale 72055
does not know that the controlled substance has been so 72056
intercepted; the sale in question is made to the intended 72057
recipient of the controlled substance in the other sale and is 72058
undertaken with the intent of obtaining evidence of a drug abuse 72059
offense against the intended recipient of the controlled 72060
substance; and the sale in question does not involve the transfer 72061
of any money or other thing of value to the peace officer who 72062
makes the sale or any other peace officer who serves the same 72063
agency served by the peace officer who makes the sale in exchange 72064
for the controlled substance. 72065

(d) If the sale is made under the circumstances described in 72066
division (A)(1)(c)(i) or (ii) of this section, no person is 72067
charged with any criminal offense or any delinquent act based upon 72068
the sale unless both of the following apply: 72069

(i) The person also is charged with a criminal offense or a 72070
delinquent act that is based upon an act or omission that is 72071
independent of the sale but that either is connected together with 72072
the sale, or constitutes a part of a common scheme or plan with 72073
the sale, or is part of a course of criminal conduct involving the 72074
sale. 72075

(ii) The criminal offense or delinquent act based upon the 72076
sale and the other criminal offense or delinquent act are charged 72077
in the same indictment, information, or complaint. 72078

(e) The sale is not part of a continuing course of conduct 72079
involving the sale of controlled substances by the peace officer 72080
who makes the sale. 72081

(f) The amount of the controlled substance sold and the scope 72082

of the sale of the controlled substance is as limited as possible 72083
under the circumstances. 72084

(g) Prior to the sale, the law enforcement agency served by 72085
the peace officer who makes the sale has adopted a written 72086
internal control policy that does all of the following: 72087

(i) Addresses the keeping of detailed records as to the 72088
amount of money or other things of value obtained in the sale in 72089
exchange for the controlled substance; 72090

(ii) Addresses the delivery of all moneys or things of value 72091
so obtained to the prosecuting attorney pursuant to division (D) 72092
of this section; 72093

(iii) Addresses the agency's use and disposition of all such 72094
moneys or things of value that are deposited in the law 72095
enforcement trust fund of the sheriff, municipal corporation, or 72096
township, pursuant to division (D) of this section, and that are 72097
used by the sheriff, are allocated to the police department of the 72098
municipal corporation by its legislative authority, or are 72099
allocated by the board of township trustees to the township police 72100
department, township or joint police district police force, or 72101
office of the constable; 72102

(iv) Provides for the keeping of detailed financial records 72103
of the receipts of the proceeds, the general types of expenditures 72104
made out of the proceeds received, and the specific amount of each 72105
general type of expenditure. The policy shall not provide for or 72106
permit the identification of any peace officer involved in the 72107
sale, any information that is or may be needed in an ongoing 72108
investigation, or any specific expenditure that is made in an 72109
ongoing investigation. 72110

(2) A peace officer may sell any controlled substance in the 72111
performance of the officer's official duties if all of the 72112
following apply: 72113

(a) Prior approval for the sale has been given by the prosecuting attorney of the county in which the sale takes place, in any manner described in division (B) of this section;

(b) Prior to the sale, the law enforcement agency served by the peace officer has adopted a written internal control policy that does the things listed in divisions (A)(1)(g)(i) to (iv) of this section;

(c) The purchaser of the controlled substance acquires possession of it in the presence of the peace officer who makes the sale.

(d) Upon the consummation of the sale, either of the following occurs:

(i) The peace officer arrests the purchaser of the controlled substance, recovers it and the proceeds of the sale, and secures it and the proceeds as evidence to be used in a subsequent prosecution.

(ii) The peace officer makes a reasonable, good faith effort to arrest the purchaser of the controlled substance and to recover the controlled substance and the proceeds of the sale, but the officer is unable to make the arrest and recover all of the controlled substance and proceeds for reasons beyond the officer's control, and the peace officer secures all of the controlled substance recovered and all of the proceeds recovered as evidence to be used in a subsequent prosecution.

(B) The approval of a prosecuting attorney required by division (A)(1)(a) or (2)(a) of this section may be in either of the following forms:

(1) A general approval that is given by the prosecuting attorney to the peace officer who makes the sale or to the law enforcement agency served by that peace officer, that grants approval only to that peace officer, and that grants approval for

any such sale that may be necessary, after the approval has been 72145
granted, under the standards described in division (A)(1) or (2) 72146
of this section; 72147

(2) A specific approval that is given by the prosecuting 72148
attorney to the peace officer who makes the sale or to the law 72149
enforcement agency served by that peace officer, and that grants 72150
approval only to that peace officer and only for the particular 72151
sale in question, under the standards described in division (A)(1) 72152
or (2) of this section. 72153

(C) If a peace officer sells a controlled substance in the 72154
performance of the officer's official duties under division (A)(1) 72155
or (2) of this section, the peace officer, within a reasonable 72156
time after the sale, shall provide the prosecuting attorney who 72157
granted approval for the sale with a written summary that 72158
identifies the amount and type of controlled substance sold, the 72159
circumstances of the sale, and the amount of any money or other 72160
thing of value obtained in the sale in exchange for the controlled 72161
substance. The summary shall not identify or enable the 72162
identification of any peace officer involved in the sale and shall 72163
not contain any information that is or may be needed in an ongoing 72164
investigation. 72165

(D)(1) Except as provided in division (D)(2) of this section, 72166
if a peace officer sells a controlled substance in the performance 72167
of the officer's official duties under division (A)(1) or (2) of 72168
this section, the peace officer, as soon as possible after the 72169
sale, shall deliver all money or other things of value obtained in 72170
the sale in exchange for the controlled substance to the 72171
prosecuting attorney who granted approval for the sale. The 72172
prosecuting attorney shall safely keep all money and other things 72173
of value the prosecuting attorney receives under this division for 72174
use as evidence in any criminal action or delinquency proceeding 72175
based upon the sale. All money so received by a prosecuting 72176

attorney that no longer is needed as evidence in any criminal 72177
action or delinquency proceeding shall be deposited by the 72178
prosecuting attorney in the law enforcement trust fund of the 72179
sheriff if the peace officer who made the sale is the sheriff or a 72180
deputy sheriff or the law enforcement trust fund of a municipal 72181
corporation or township if it is served by the peace officer who 72182
made the sale, as established pursuant to section 2981.13 of the 72183
Revised Code, and upon deposit shall be expended only as provided 72184
in that section. All other things of value so received by a 72185
prosecuting attorney that no longer are needed as evidence in any 72186
criminal action or delinquency proceeding shall be disposed of, 72187
without appraisal, at a public auction to the highest bidder for 72188
cash; the proceeds of the sale shall be deposited by the 72189
prosecuting attorney in the law enforcement trust fund of the 72190
sheriff if the peace officer who made the sale is the sheriff or a 72191
deputy sheriff or the law enforcement trust fund of a municipal 72192
corporation or township if it is served by the peace officer who 72193
made the sale, as established pursuant to section 2981.13 of the 72194
Revised Code, and upon deposit shall be expended only as provided 72195
in that section. Each law enforcement agency that uses any money 72196
that was deposited in a law enforcement trust fund pursuant to 72197
this division shall comply with the written internal control 72198
policy adopted by the agency, as required by division (A)(1)(g) or 72199
(2)(b) of this section, in its use of the money. 72200

(2) Division (D)(1) of this section does not apply in 72201
relation to a peace officer who sells a controlled substance in 72202
the performance of the officer's official duties under division 72203
(A)(1) of this section in any of the following circumstances: 72204

(a) The person to whom the sale is made or any other person 72205
who is involved in the sale does not know that the officer is a 72206
peace officer, and, if the officer were to retain and deliver the 72207
money or other things of value to the prosecuting attorney, the 72208

person would determine or suspect that the officer is a peace officer. 72209
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(b) If the officer were to retain and deliver the money or other things of value to the prosecuting attorney, an identity that has been assumed in the performance of the officer's official duties would not be preserved. 72211
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(c) The sale is made under the circumstances described in division (A)(1)(c)(iii) of this section. 72215
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(3) If division (D)(1) of this section does not apply in relation to a peace officer who sells a controlled substance in the performance of the officer's official duties under division (A)(1) of this section due to the operation of division (D)(2) of this section, the peace officer, as soon as possible after the sale, shall deliver to the prosecuting attorney who granted approval for the sale a written summary that describes the circumstances of the sale and the reason for which division (D)(1) of this section does not apply. The summary shall not identify or enable the identification of any peace officer involved in the sale and shall not contain any information that is or may be needed in an ongoing investigation. 72217
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(E)(1) A written internal control policy adopted by a law enforcement agency that is served by a peace officer who sells a controlled substance under division (A)(1) or (2) of this section, as required by division (A)(1)(g) or (2)(b) of this section, is a public record open for inspection under section 149.43 of the Revised Code. Each law enforcement agency that adopts a written internal control policy of that nature shall comply with it in relation to any sale of a controlled substance under division (A)(1) or (2) of this section. All records as to the amount of money or things of value obtained in the sale of a controlled substance, in exchange for the controlled substance, and all financial records of the receipts of the proceeds, the general 72229
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types of expenditures made out of the proceeds received, and the 72241
specific amounts of each general type of expenditure by a law 72242
enforcement agency in relation to any sale of a controlled 72243
substance under division (A)(1) or (2) of this section are public 72244
records open for inspection under section 149.43 of the Revised 72245
Code. 72246

(2) A summary required by division (C) or (D)(3) of this 72247
section is a public record open for inspection under section 72248
149.43 of the Revised Code. 72249

(F)(1) Each prosecuting attorney who grants approval for a 72250
sale of controlled substances by a peace officer and who receives 72251
in any calendar year one or more summaries under division (C) of 72252
this section relative to the sale of a controlled substance by a 72253
peace officer shall prepare a report covering the calendar year 72254
that cumulates all of the information contained in each of the 72255
summaries so received in the calendar year and shall send the 72256
cumulative report, no later than the first day of March in the 72257
calendar year following the calendar year covered by the report, 72258
to the attorney general. 72259

(2) Each prosecuting attorney who receives any money or any 72260
other thing of value under division (D)(1) of this section shall 72261
keep detailed financial records of the receipts and dispositions 72262
of all such moneys or things of value so received. No record of 72263
that nature shall identify, or enable the identification of, any 72264
person from whom money or another thing of value was received as a 72265
result of the sale of a controlled substance under division (A)(1) 72266
or (2) of this section or contain any information that is or may 72267
be needed in an ongoing investigation. Each record of that nature 72268
is a public record open for inspection under section 149.43 of the 72269
Revised Code and shall include, but is not limited to, all of the 72270
following information: 72271

(a) The identity of each law enforcement agency that has so 72272

delivered any money or other thing of value to the prosecuting attorney; 72273
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(b) The total amount of money or other things of value so received from each law enforcement agency; 72275
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(c) The disposition made under this section of all money or other things of value so received. 72277
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(G) Divisions (A) to (F) of this section do not apply to any peace officer, or to any officer, agent, or employee of the United States, who is operating under the management and direction of the United States department of justice. Any peace officer, or any officer, agent, or employee of the United States, who is operating under the management and direction of the United States department of justice may sell a controlled substance in the performance of the officer's, agent's, or employee's official duties if the sale is made in accordance with federal statutes and regulations. 72279
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(H) As used in this section, "peace officer" has the same meaning as in section 2935.01 of the Revised Code and also includes a special agent of the bureau of criminal identification and investigation. 72288
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Sec. 3719.41. Controlled substance schedules I, II, III, IV, and V are hereby established, which schedules include the following, subject to amendment pursuant to section 3719.43 or 3719.44 of the Revised Code. 72292
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SCHEDULE I 72296

(A) Narcotics-opiates 72297

Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted under federal drug abuse control laws, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation: 72298
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(1) Acetyl-alpha-methylfentanyl	72303
(N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);	72304
(2) Acetylmethadol;	72305
(3) Allylprodine;	72306
(4) Alphacetylmethadol (except levo-alphacetylmethadol, also	72307
known as levo-alpha-acetylmethadol, levomethadyl acetate, or	72308
LAAM);	72309
(5) Alphameprodine;	72310
(6) Alphamethadol;	72311
(7) Alpha-methylfentanyl	72312
(N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide;	72313
1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);	72314
(8) Alpha-methylthiofentanyl	72315
(N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-	72316
phenylpropanamide);	72317
(9) Benzethidine;	72318
(10) Betacetylmethadol;	72319
(11) Beta-hydroxyfentanyl	72320
(N-[1-(2-hydroxy-2-phenethyl-4-piperidinyl)-N- phenylpropanamide);	72321
(12) Beta-hydroxy-3-methylfentanyl (other name:	72322
N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-	72323
phenylpropanamide);	72324
(13) Betameprodine;	72325
(14) Betamethadol;	72326
(15) Betaprodine;	72327
(16) Clonitazene;	72328
(17) Dextromoramide;	72329
(18) Diampromide;	72330

(19) Diethylthiambutene;	72331
(20) Difenoquin;	72332
(21) Dimenoxadol;	72333
(22) Dimepheptanol;	72334
(23) Dimethylthiambutene;	72335
(24) Dioxaphetyl butyrate;	72336
(25) Dipipanone;	72337
(26) Ethylmethylthiambutene;	72338
(27) Etonitazene;	72339
(28) Etoxadine;	72340
(29) Furethidine;	72341
(30) Hydroxypethidine;	72342
(31) Ketobemidone;	72343
(32) Levomoramide;	72344
(33) Levophenacymorphan;	72345
(34) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);	72346 72347
(35) 3-methylthiofentanyl (N-[3-methyl-1-[2-(thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide);	72348 72349 72350
(36) Morpheridine;	72351
(37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);	72352
(38) Noracymethadol;	72353
(39) Norlevorphanol;	72354
(40) Normethadone;	72355
(41) Norpipanone;	72356

(42) Para-fluorofentanyl	72357
(N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide;	72358
(43) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine;	72359
(44) Phenadoxone;	72360
(45) Phenampromide;	72361
(46) Phenomorphan;	72362
(47) Phenoperidine;	72363
(48) Piritramide;	72364
(49) Proheptazine;	72365
(50) Properidine;	72366
(51) Propiram;	72367
(52) Racemoramide;	72368
(53) Thiofentanyl	72369
(N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide;	72370
(54) Tilidine;	72371
(55) Trimeperidine.	72372
(B) Narcotics-opium derivatives	72373
Any of the following opium derivatives, including their	72374
salts, isomers, and salts of isomers, unless specifically excepted	72375
under federal drug abuse control laws, whenever the existence of	72376
these salts, isomers, and salts of isomers is possible within the	72377
specific chemical designation:	72378
(1) Acetorphine;	72379
(2) Acetyldihydrocodeine;	72380
(3) Benzylmorphine;	72381
(4) Codeine methylbromide;	72382
(5) Codeine-n-oxide;	72383

(6) Cyprenorphine;	72384
(7) Desomorphine;	72385
(8) Dihydromorphine;	72386
(9) Drotebanol;	72387
(10) Etorphine (except hydrochloride salt);	72388
(11) Heroin;	72389
(12) Hydromorphanol;	72390
(13) Methyldesorphine;	72391
(14) Methyldihydromorphine;	72392
(15) Morphine methylbromide;	72393
(16) Morphine methylsulfonate;	72394
(17) Morphine-n-oxide;	72395
(18) Myrophine;	72396
(19) Nicocodeine;	72397
(20) Nicomorphine;	72398
(21) Normorphine;	72399
(22) Pholcodine;	72400
(23) Thebacon.	72401
(C) Hallucinogens	72402
Any material, compound, mixture, or preparation that contains	72403
any quantity of the following hallucinogenic substances, including	72404
their salts, isomers, and salts of isomers, unless specifically	72405
excepted under federal drug abuse control laws, whenever the	72406
existence of these salts, isomers, and salts of isomers is	72407
possible within the specific chemical designation. For the	72408
purposes of this division only, "isomer" includes the optical	72409
isomers, position isomers, and geometric isomers.	72410

(1) Alpha-ethyltryptamine (some trade or other names: etryptamine; Monase; alpha-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; and AET);	72411 72412 72413
(2) 4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA);	72414 72415 72416
(3) 4-bromo-2,5-dimethoxyphenethylamine (some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus);	72417 72418 72419
(4) 2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA);	72420 72421
(5) 2,5-dimethoxy-4-ethylamphetamine (some trade or other names: DOET);	72422 72423
(6) 4-methoxyamphetamine (some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA);	72424 72425 72426
(7) 5-methoxy-3,4-methylenedioxy-amphetamine;	72427
(8) 4-methyl-2,5-dimethoxy-amphetamine (some trade or other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM" and "STP");	72428 72429 72430
(9) 3,4-methylenedioxy amphetamine;	72431
(10) 3,4-methylenedioxymethamphetamine (MDMA);	72432
(11) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);	72433 72434 72435
(12) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine and N-hydroxy MDA);	72436 72437 72438
(13) 3,4,5-trimethoxy amphetamine;	72439

(14) Bufotenine (some trade or other names:	72440
3-(beta-dimethylaminoethyl)-5-hydroxyindole;	72441
3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin;	72442
5-hydroxy-N, N-dimethyltryptamine; mappine);	72443
(15) Diethyltryptamine (some trade or other names: N,	72444
N-diethyltryptamine; DET);	72445
(16) Dimethyltryptamine (some trade or other names: DMT);	72446
(17) Ibogaine (some trade or other names:	72447
7-ethyl-6,6beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-	72448
5H-pyrido[1',2':1,2] azepino [5, 4-b] indole; tabernanthe iboga);	72449
(18) Lysergic acid diethylamide;	72450
(19) Marihuana;	72451
(20) Mescaline;	72452
(21) Parahexyl (some trade or other names: 3-hexyl-1-	72453
hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran;	72454
synhexyl);	72455
(22) Peyote (meaning all parts of the plant presently	72456
classified botanically as "Lophophora williamsii Lemaire," whether	72457
growing or not, the seeds of that plant, any extract from any part	72458
of that plant, and every compound, manufacture, salts, derivative,	72459
mixture, or preparation of that plant, its seeds, or its	72460
extracts);	72461
(23) N-ethyl-3-piperidyl benzilate;	72462
(24) N-methyl-3-piperidyl benzilate;	72463
(25) Psilocybin;	72464
(26) Psilocyn;	72465
(27) Tetrahydrocannabinols (synthetic equivalents of the	72466
substances contained in the plant, or in the resinous extractives	72467
of Cannabis, sp. and/or synthetic substances, derivatives, and	72468

their isomers with similar chemical structure and pharmacological activity such as the following: delta-1-cis or trans tetrahydrocannabinol, and their optical isomers; delta-6-cis or trans tetrahydrocannabinol, and their optical isomers; delta-3,4-cis or trans tetrahydrocannabinol, and its optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions, are covered.));

(28) Ethylamine analog of phencyclidine (some trade or other names: N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE);

(29) Pyrrolidine analog of phencyclidine (some trade or other names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP);

(30) Thiophene analog of phencyclidine (some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine; 2-thienyl analog of phencyclidine; TPCP; TCP);

(31) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine;

(32) Hashish;

(33) Salvia divinorum;

(34) Salvinorin A_i

(35) Methyone (3,4-methylenedioxy methcathinone);

(36) MDPV (3,4-methylenedioxy pyrovalerone);

(37) Mephedrone (4-methylmethcathinone);

(38) 4-methoxymethcathinone;

(39) 4-fluoromethcathinone;

(40) 3-fluoromethcathinone.

(D) Depressants

Any material, compound, mixture, or preparation that contains 72498
any quantity of the following substances having a depressant 72499
effect on the central nervous system, including their salts, 72500
isomers, and salts of isomers, unless specifically excepted under 72501
federal drug abuse control laws, whenever the existence of these 72502
salts, isomers, and salts of isomers is possible within the 72503
specific chemical designation: 72504

(1) Mecloqualone; 72505

(2) Methaqualone. 72506

(E) Stimulants 72507

Unless specifically excepted or unless listed in another 72508
schedule, any material, compound, mixture, or preparation that 72509
contains any quantity of the following substances having a 72510
stimulant effect on the central nervous system, including their 72511
salts, isomers, and salts of isomers: 72512

(1) Aminorex (some other names: aminoxaphen; 72513
2-amino-5-phenyl-2-oxazoline; or 72514
4,5-dihydro-5-phenyl-2-oxazolamine); 72515

(2) Cathinone (some trade or other names: 72516
2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 72517
2-aminopropiophenone, and norephedrone); 72518

(3) Fenethylline; 72519

(4) Methcathinone (some other names: 72520
2-(methylamino)-propiofenone; alpha-(methylamino)propiofenone; 72521
2-methylamino)-1-phenylpropan-1-one; 72522
alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; 72523
N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and 72524
UR1432, its salts, optical isomers, and salts of optical isomers; 72525

(5) (+/-)cis-4-methylaminorex 72526
((+/-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine); 72527

(6) N-ethylamphetamine;	72528
(7) N,N-dimethylamphetamine (also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine).	72529 72530 72531
SCHEDULE II	72532
(A) Narcotics-opium and opium derivatives	72533
Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:	72534 72535 72536 72537 72538 72539
(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:	72540 72541 72542 72543 72544
(a) Raw opium;	72545
(b) Opium extracts;	72546
(c) Opium fluid extracts;	72547
(d) Powdered opium;	72548
(e) Granulated opium;	72549
(f) Tincture of opium;	72550
(g) Codeine;	72551
(h) Ethylmorphine;	72552
(i) Etorphine hydrochloride;	72553
(j) Hydrocodone;	72554
(k) Hydromorphone;	72555

(l) Metopon;	72556
(m) Morphine;	72557
(n) Oxycodone;	72558
(o) Oxymorphone;	72559
(p) Thebaine.	72560
(2) Any salt, compound, derivative, or preparation thereof	72561
that is chemically equivalent to or identical with any of the	72562
substances referred to in division (A)(1) of this schedule, except	72563
that these substances shall not include the isoquinoline alkaloids	72564
of opium;	72565
(3) Opium poppy and poppy straw;	72566
(4) Coca leaves and any salt, compound, derivative, or	72567
preparation of coca leaves (including cocaine and ecgonine, their	72568
salts, isomers, and derivatives, and salts of those isomers and	72569
derivatives), and any salt, compound, derivative, or preparation	72570
thereof that is chemically equivalent to or identical with any of	72571
these substances, except that the substances shall not include	72572
decocainized coca leaves or extraction of coca leaves, which	72573
extractions do not contain cocaine or ecgonine;	72574
(5) Concentrate of poppy straw (the crude extract of poppy	72575
straw in either liquid, solid, or powder form that contains the	72576
phenanthrene alkaloids of the opium poppy).	72577
(B) Narcotics-opiates	72578
Unless specifically excepted under federal drug abuse control	72579
laws or unless listed in another schedule, any of the following	72580
opiates, including their isomers, esters, ethers, salts, and salts	72581
of isomers, esters, and ethers, whenever the existence of these	72582
isomers, esters, ethers, and salts is possible within the specific	72583
chemical designation, but excluding dextrorphan and	72584
levopropoxyphene:	72585

(1) Alfentanil;	72586
(2) Alphaprodine;	72587
(3) Anileridine;	72588
(4) Bezitramide;	72589
(5) Bulk dextropropoxyphene (non-dosage forms);	72590
(6) Carfentanil;	72591
(7) Dihydrocodeine;	72592
(8) Diphenoxylate;	72593
(9) Fentanyl;	72594
(10) Isomethadone;	72595
(11) Levo-alpha-acetylmethadol (some other names:	72596
levo-alpha-acetylmethadol; levomethadyl acetate; LAAM);	72597
(12) Levomethorphan;	72598
(13) Levorphanol;	72599
(14) Metazocine;	72600
(15) Methadone;	72601
(16) Methadone-intermediate,	72602
4-cyano-2-dimethylamino-4,4-diphenyl butane;	72603
(17) Moramide-intermediate,	72604
2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;	72605
(18) Pethidine (meperidine);	72606
(19) Pethidine-intermediate-A,	72607
4-cyano-1-methyl-4-phenylpiperidine;	72608
(20) Pethidine-intermediate-B,	72609
ethyl-4-phenylpiperidine-4-carboxylate;	72610
(21) Pethidine-intermediate-C,	72611
1-methyl-4-phenylpiperidine-4-carboxylic acid;	72612

(22) Phenazocine;	72613
(23) Piminodine;	72614
(24) Racemethorphan;	72615
(25) Racemorphan;	72616
(26) Remifentanil;	72617
(27) Sufentanil.	72618
(C) Stimulants	72619
Unless specifically excepted under federal drug abuse control	72620
laws or unless listed in another schedule, any material, compound,	72621
mixture, or preparation that contains any quantity of the	72622
following substances having a stimulant effect on the central	72623
nervous system:	72624
(1) Amphetamine, its salts, its optical isomers, and salts of	72625
its optical isomers;	72626
(2) Methamphetamine, its salts, its isomers, and salts of its	72627
isomers;	72628
(3) Methylphenidate;	72629
(4) Phenmetrazine and its salts.	72630
(D) Depressants	72631
Unless specifically excepted under federal drug abuse control	72632
laws or unless listed in another schedule, any material, compound,	72633
mixture, or preparation that contains any quantity of the	72634
following substances having a depressant effect on the central	72635
nervous system, including their salts, isomers, and salts of	72636
isomers, whenever the existence of these salts, isomers, and salts	72637
of isomers is possible within the specific chemical designation:	72638
(1) Amobarbital;	72639
(2) Gamma-hydroxy-butyrate;	72640

(3) Glutethimide;	72641
(4) Pentobarbital;	72642
(5) Phencyclidine (some trade or other names: 1-(1-phenylcyclohexyl)piperidine; PCP);	72643 72644
(6) Secobarbital;	72645
(7) 1-aminophenylcyclohexane and all N-mono-substituted and/or all N-N-disubstituted analogs including, but not limited to, the following:	72646 72647 72648
(a) 1-phenylcyclohexylamine;	72649
(b) (1-phenylcyclohexyl) methylamine;	72650
(c) (1-phenylcyclohexyl) dimethylamine;	72651
(d) (1-phenylcyclohexyl) methylethylamine;	72652
(e) (1-phenylcyclohexyl) isopropylamine;	72653
(f) 1-(1-phenylcyclohexyl) morpholine.	72654
(E) Hallucinogenic substances	72655
(1) Nabilone (another name for nabilone: (+)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1- hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one);	72656 72657 72658
<u>(2) Formaldehyde.</u>	72659
(F) Immediate precursors	72660
Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances:	72661 72662 72663 72664
(1) Immediate precursor to amphetamine and methamphetamine:	72665
(a) Phenylacetone (some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone);	72666 72667 72668

- (2) Immediate precursors to phencyclidine (PCP): 72669
- (a) 1-phenylcyclohexylamine; 72670
- (b) 1-piperidinocyclohexanecarbonitrile (PCC). 72671

SCHEDULE III

- (A) Stimulants 72673

Unless specifically excepted under federal drug abuse control 72674
laws or unless listed in another schedule, any material, compound, 72675
mixture, or preparation that contains any quantity of the 72676
following substances having a stimulant effect on the central 72677
nervous system, including their salts, their optical isomers, 72678
position isomers, or geometric isomers, and salts of these 72679
isomers, whenever the existence of these salts, isomers, and salts 72680
of isomers is possible within the specific chemical designation: 72681

(1) All stimulant compounds, mixtures, and preparations 72682
included in schedule III pursuant to the federal drug abuse 72683
control laws and regulations adopted under those laws; 72684

(2) Benzphetamine; 72685

(3) Chlorphentermine; 72686

(4) Clortermine; 72687

(5) Phendimetrazine. 72688

- (B) Depressants 72689

Unless specifically excepted under federal drug abuse control 72690
laws or unless listed in another schedule, any material, compound, 72691
mixture, or preparation that contains any quantity of the 72692
following substances having a depressant effect on the central 72693
nervous system: 72694

(1) Any compound, mixture, or preparation containing 72695
amobarbital, secobarbital, pentobarbital, or any salt of any of 72696
these drugs, and one or more other active medicinal ingredients 72697

that are not listed in any schedule;	72698
(2) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository;	72699 72700 72701 72702
(3) Any substance that contains any quantity of a derivative of barbituric acid or any salt of a derivative of barbituric acid;	72703 72704
(4) Chlorhexadol;	72705
(5) Ketamine, its salts, isomers, and salts of isomers (some other names for ketamine: (+/-)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone);	72706 72707 72708
(6) Lysergic acid;	72709
(7) Lysergic acid amide;	72710
(8) Methyprylon;	72711
(9) Sulfondiethylmethane;	72712
(10) Sulfonethylmethane;	72713
(11) Sulfonmethane;	72714
(12) Tiletamine, zolazepam, or any salt of tiletamine or zolazepam (some trade or other names for a tiletamine-zolazepam combination product: Telazol); (some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone); (some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8- dihydro-1,3,8-trimethylpyrazolo-[3, 4-e][1,4]-diazepin-7(1H)-one; flupyrazapon).	72715 72716 72717 72718 72719 72720 72721
(C) Narcotic antidotes	72722
(1) Nalorphine.	72723
(D) Narcotics-narcotic preparations	72724
Unless specifically excepted under federal drug abuse control	72725

laws or unless listed in another schedule, any material, compound, 72726
mixture, or preparation that contains any of the following 72727
narcotic drugs, or their salts calculated as the free anhydrous 72728
base or alkaloid, in limited quantities as set forth below: 72729

(1) Not more than 1.8 grams of codeine per 100 milliliters or 72730
not more than 90 milligrams per dosage unit, with an equal or 72731
greater quantity of an isoquinoline alkaloid of opium; 72732

(2) Not more than 1.8 grams of codeine per 100 milliliters or 72733
not more than 90 milligrams per dosage unit, with one or more 72734
active, nonnarcotic ingredients in recognized therapeutic amounts; 72735

(3) Not more than 300 milligrams of dihydrocodeinone per 100 72736
milliliters or not more than 15 milligrams per dosage unit, with a 72737
fourfold or greater quantity of an isoquinoline alkaloid of opium; 72738

(4) Not more than 300 milligrams of dihydrocodeinone per 100 72739
milliliters or not more than 15 milligrams per dosage unit, with 72740
one or more active, nonnarcotic ingredients in recognized 72741
therapeutic amounts; 72742

(5) Not more than 1.8 grams of dihydrocodeine per 100 72743
milliliters or not more than 90 milligrams per dosage unit, with 72744
one or more active, nonnarcotic ingredients in recognized 72745
therapeutic amounts; 72746

(6) Not more than 300 milligrams of ethylmorphine per 100 72747
milliliters or not more than 15 milligrams per dosage unit, with 72748
one or more active, nonnarcotic ingredients in recognized 72749
therapeutic amounts; 72750

(7) Not more than 500 milligrams of opium per 100 milliliters 72751
or per 100 grams or not more than 25 milligrams per dosage unit, 72752
with one or more active, nonnarcotic ingredients in recognized 72753
therapeutic amounts; 72754

(8) Not more than 50 milligrams of morphine per 100 72755

milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts. 72756
72757

(E) Anabolic steroids 72758

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances, including their salts, esters, isomers, and salts of esters and isomers, whenever the existence of these salts, esters, and isomers is possible within the specific chemical designation: 72759
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(1) Anabolic steroids. Except as otherwise provided in division (E)(1) of schedule III, "anabolic steroids" means any drug or hormonal substance that is chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) and that promotes muscle growth. "Anabolic steroids" does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved by the United States secretary of health and human services for that administration, unless a person prescribes, dispenses, or distributes this type of anabolic steroid for human use. "Anabolic steroid" includes, but is not limited to, the following: 72766
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(a) Boldenone; 72778

(b) Chlorotestosterone (4-chlortestosterone); 72779

(c) Clostebol; 72780

(d) Dehydrochlormethyltestosterone; 72781

(e) Dihydrotestosterone (4-dihydrotestosterone); 72782

(f) Drostanolone; 72783

(g) Ethylestrenol; 72784

(h) Fluoxymesterone; 72785

(i) Formebolone (formebolone);	72786
(j) Mesterolone;	72787
(k) Methandienone;	72788
(l) Methandranone;	72789
(m) Methandriol;	72790
(n) Methandrostenolone;	72791
(o) Methenolone;	72792
(p) Methyltestosterone;	72793
(q) Mibolerone;	72794
(r) Nandrolone;	72795
(s) Norethandrolone;	72796
(t) Oxandrolone;	72797
(u) Oxymesterone;	72798
(v) Oxymetholone;	72799
(w) Stanolone;	72800
(x) Stanozolol;	72801
(y) Testolactone;	72802
(z) Testosterone;	72803
(aa) Trenbolone;	72804
(bb) Any salt, ester, isomer, or salt of an ester or isomer	72805
of a drug or hormonal substance described or listed in division	72806
(E)(1) of schedule III if the salt, ester, or isomer promotes	72807
muscle growth.	72808
(F) Hallucinogenic substances	72809
(1) Dronabinol (synthetic) in sesame oil and encapsulated in	72810
a soft gelatin capsule in a United States food and drug	72811
administration approved drug product (some other names for	72812

dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro- 72813
6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or 72814
(-)-delta-9-(trans)-tetrahydrocannabinol). 72815

SCHEDULE IV 72816

(A) Narcotic drugs 72817

Unless specifically excepted by federal drug abuse control 72818
laws or unless listed in another schedule, any material, compound, 72819
mixture, or preparation that contains any of the following 72820
narcotic drugs, or their salts calculated as the free anhydrous 72821
base or alkaloid, in limited quantities as set forth below: 72822

(1) Not more than one milligram of difenoxin and not less 72823
than 25 micrograms of atropine sulfate per dosage unit; 72824

(2) Dextropropoxyphene 72825
(alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2- 72826
propionoxybutane)[final dosage forms]. 72827

(B) Depressants 72828

Unless specifically excepted under federal drug abuse control 72829
laws or unless listed in another schedule, any material, compound, 72830
mixture, or preparation that contains any quantity of the 72831
following substances, including their salts, isomers, and salts of 72832
isomers, whenever the existence of these salts, isomers, and salts 72833
of isomers is possible within the specific chemical designation: 72834

(1) Alprazolam; 72835

(2) Barbital; 72836

(3) Bromazepam; 72837

(4) Camazepam; 72838

(5) Chloral betaine; 72839

(6) Chloral hydrate; 72840

(7) Chlordiazepoxide; 72841

(8) Clobazam;	72842
(9) Clonazepam;	72843
(10) Clorazepate;	72844
(11) Clotiazepam;	72845
(12) Cloxazolam;	72846
(13) Delorazepam;	72847
(14) Diazepam;	72848
(15) Estazolam;	72849
(16) Ethchlorvynol;	72850
(17) Ethinamate;	72851
(18) Ethyl loflazepate;	72852
(19) Fludiazepam;	72853
(20) Flunitrazepam;	72854
(21) Flurazepam;	72855
(22) Halazepam;	72856
(23) Haloxazolam;	72857
(24) Ketazolam;	72858
(25) Loprazolam;	72859
(26) Lorazepam;	72860
(27) Lormetazepam;	72861
(28) Mebutamate;	72862
(29) Medazepam;	72863
(30) Meprobamate;	72864
(31) Methohexital;	72865
(32) Methylphenobarbital (mephobarbital);	72866

(33) Midazolam;	72867
(34) Nimetazepam;	72868
(35) Nitrazepam;	72869
(36) Nordiazepam;	72870
(37) Oxazepam;	72871
(38) Oxazolam;	72872
(39) Paraldehyde;	72873
(40) Petrichloral;	72874
(41) Phenobarbital;	72875
(42) Pinazepam;	72876
(43) Prazepam;	72877
(44) Quazepam;	72878
(45) Temazepam;	72879
(46) Tetrazepam;	72880
(47) Triazolam;	72881
(48) Zaleplon;	72882
(49) Zolpidem.	72883
(C) Fenfluramine	72884
Any material, compound, mixture, or preparation that contains	72885
any quantity of the following substances, including their salts,	72886
their optical isomers, position isomers, or geometric isomers, and	72887
salts of these isomers, whenever the existence of these salts,	72888
isomers, and salts of isomers is possible within the specific	72889
chemical designation:	72890
(1) Fenfluramine.	72891
(D) Stimulants	72892
Unless specifically excepted under federal drug abuse control	72893

(A) Narcotic drugs	72922
Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any of the following narcotic drugs, and their salts, as set forth below:	72923 72924 72925 72926
(1) Buprenorphine.	72927
(B) Narcotics-narcotic preparations	72928
Narcotic drugs containing non-narcotic active medicinal ingredients. Any compound, mixture, or preparation that contains any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, and that includes one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:	72929 72930 72931 72932 72933 72934 72935 72936
(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;	72937 72938
(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;	72939 72940
(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;	72941 72942
(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfite per dosage unit;	72943 72944
(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;	72945 72946
(6) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfite per dosage unit.	72947 72948
(C) Stimulants	72949
Unless specifically exempted or excluded under federal drug	72950

abuse control laws or unless listed in another schedule, any 72951
material, compound, mixture, or preparation that contains any 72952
quantity of the following substances having a stimulant effect on 72953
the central nervous system, including their salts, isomers, and 72954
salts of isomers: 72955

(1) Ephedrine, except as provided in division (K) of section 72956
3719.44 of the Revised Code; 72957

(2) Pyrovalerone. 72958

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 72959
3721.99 of the Revised Code: 72960

(1)(a) "Home" means an institution, residence, or facility 72961
that provides, for a period of more than twenty-four hours, 72962
whether for a consideration or not, accommodations to three or 72963
more unrelated individuals who are dependent upon the services of 72964
others, including a nursing home, residential care facility, home 72965
for the aging, and a veterans' home operated under Chapter 5907. 72966
of the Revised Code. 72967

(b) "Home" also means both of the following: 72968

(i) Any facility that a person, as defined in section 3702.51 72969
of the Revised Code, proposes for certification as a skilled 72970
nursing facility or nursing facility under Title XVIII or XIX of 72971
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 72972
as amended, and for which a certificate of need, other than a 72973
certificate to recategorize hospital beds as described in section 72974
3702.522 of the Revised Code or division (R)(7)(d) of the version 72975
of section 3702.51 of the Revised Code in effect immediately prior 72976
to April 20, 1995, has been granted to the person under sections 72977
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 72978

(ii) A county home or district home that is or has been 72979
licensed as a residential care facility. 72980

- (c) "Home" does not mean any of the following: 72981
- (i) Except as provided in division (A)(1)(b) of this section, 72982
a public hospital or hospital as defined in section 3701.01 or 72983
5122.01 of the Revised Code; 72984
- (ii) A residential facility for mentally ill persons as 72985
defined under section 5119.22 of the Revised Code; 72986
- (iii) A residential facility as defined in section 5123.19 of 72987
the Revised Code; 72988
- (iv) An adult care facility as defined in section ~~3722.01~~ 72989
5119.70 of the Revised Code; 72990
- (v) An alcohol or drug addiction program as defined in 72991
section 3793.01 of the Revised Code; 72992
- (vi) A facility licensed to provide methadone treatment under 72993
section 3793.11 of the Revised Code; 72994
- (vii) A facility providing services under contract with the 72995
department of developmental disabilities under section 5123.18 of 72996
the Revised Code unless section 5123.192 of the Revised Code makes 72997
the facility subject to the requirements of this chapter; 72998
- (viii) A facility operated by a hospice care program licensed 72999
under section 3712.04 of the Revised Code that is used exclusively 73000
for care of hospice patients; 73001
- (ix) A facility, infirmary, or other entity that is operated 73002
by a religious order, provides care exclusively to members of 73003
religious orders who take vows of celibacy and live by virtue of 73004
their vows within the orders as if related, and does not 73005
participate in the medicare program established under Title XVIII 73006
of the "Social Security Act" or the medical assistance program 73007
established under Chapter 5111. of the Revised Code and Title XIX 73008
of the "Social Security Act," if on January 1, 1994, the facility, 73009
infirmary, or entity was providing care exclusively to members of 73010

the religious order; 73011

(x) A county home or district home that has never been 73012
licensed as a residential care facility. 73013

(2) "Unrelated individual" means one who is not related to 73014
the owner or operator of a home or to the spouse of the owner or 73015
operator as a parent, grandparent, child, grandchild, brother, 73016
sister, niece, nephew, aunt, uncle, or as the child of an aunt or 73017
uncle. 73018

(3) "Mental impairment" does not mean mental illness as 73019
defined in section 5122.01 of the Revised Code or mental 73020
retardation as defined in section 5123.01 of the Revised Code. 73021

(4) "Skilled nursing care" means procedures that require 73022
technical skills and knowledge beyond those the untrained person 73023
possesses and that are commonly employed in providing for the 73024
physical, mental, and emotional needs of the ill or otherwise 73025
incapacitated. "Skilled nursing care" includes, but is not limited 73026
to, the following: 73027

(a) Irrigations, catheterizations, application of dressings, 73028
and supervision of special diets; 73029

(b) Objective observation of changes in the patient's 73030
condition as a means of analyzing and determining the nursing care 73031
required and the need for further medical diagnosis and treatment; 73032

(c) Special procedures contributing to rehabilitation; 73033

(d) Administration of medication by any method ordered by a 73034
physician, such as hypodermically, rectally, or orally, including 73035
observation of the patient after receipt of the medication; 73036

(e) Carrying out other treatments prescribed by the physician 73037
that involve a similar level of complexity and skill in 73038
administration. 73039

(5)(a) "Personal care services" means services including, but 73040

not limited to, the following: 73041

(i) Assisting residents with activities of daily living; 73042

(ii) Assisting residents with self-administration of 73043
medication, in accordance with rules adopted under section 3721.04 73044
of the Revised Code; 73045

(iii) Preparing special diets, other than complex therapeutic 73046
diets, for residents pursuant to the instructions of a physician 73047
or a licensed dietitian, in accordance with rules adopted under 73048
section 3721.04 of the Revised Code. 73049

(b) "Personal care services" does not include "skilled 73050
nursing care" as defined in division (A)(4) of this section. A 73051
facility need not provide more than one of the services listed in 73052
division (A)(5)(a) of this section to be considered to be 73053
providing personal care services. 73054

(6) "Nursing home" means a home used for the reception and 73055
care of individuals who by reason of illness or physical or mental 73056
impairment require skilled nursing care and of individuals who 73057
require personal care services but not skilled nursing care. A 73058
nursing home is licensed to provide personal care services and 73059
skilled nursing care. 73060

(7) "Residential care facility" means a home that provides 73061
either of the following: 73062

(a) Accommodations for seventeen or more unrelated 73063
individuals and supervision and personal care services for three 73064
or more of those individuals who are dependent on the services of 73065
others by reason of age or physical or mental impairment; 73066

(b) Accommodations for three or more unrelated individuals, 73067
supervision and personal care services for at least three of those 73068
individuals who are dependent on the services of others by reason 73069
of age or physical or mental impairment, and, to at least one of 73070

those individuals, any of the skilled nursing care authorized by 73071
section 3721.011 of the Revised Code. 73072

(8) "Home for the aging" means a home that provides services 73073
as a residential care facility and a nursing home, except that the 73074
home provides its services only to individuals who are dependent 73075
on the services of others by reason of both age and physical or 73076
mental impairment. 73077

The part or unit of a home for the aging that provides 73078
services only as a residential care facility is licensed as a 73079
residential care facility. The part or unit that may provide 73080
skilled nursing care beyond the extent authorized by section 73081
3721.011 of the Revised Code is licensed as a nursing home. 73082

(9) "County home" and "district home" mean a county home or 73083
district home operated under Chapter 5155. of the Revised Code. 73084

(B) The public health council may further classify homes. For 73085
the purposes of this chapter, any residence, institution, hotel, 73086
congregate housing project, or similar facility that meets the 73087
definition of a home under this section is such a home regardless 73088
of how the facility holds itself out to the public. 73089

(C) For purposes of this chapter, personal care services or 73090
skilled nursing care shall be considered to be provided by a 73091
facility if they are provided by a person employed by or 73092
associated with the facility or by another person pursuant to an 73093
agreement to which neither the resident who receives the services 73094
nor the resident's sponsor is a party. 73095

(D) Nothing in division (A)(4) of this section shall be 73096
construed to permit skilled nursing care to be imposed on an 73097
individual who does not require skilled nursing care. 73098

Nothing in division (A)(5) of this section shall be construed 73099
to permit personal care services to be imposed on an individual 73100
who is capable of performing the activity in question without 73101

assistance. 73102

(E) Division (A)(1)(c)(ix) of this section does not prohibit 73103
a facility, infirmary, or other entity described in that division 73104
from seeking licensure under sections 3721.01 to 3721.09 of the 73105
Revised Code or certification under Title XVIII or XIX of the 73106
"Social Security Act." However, such a facility, infirmary, or 73107
entity that applies for licensure or certification must meet the 73108
requirements of those sections or titles and the rules adopted 73109
under them and obtain a certificate of need from the director of 73110
health under section 3702.52 of the Revised Code. 73111

(F) Nothing in this chapter, or rules adopted pursuant to it, 73112
shall be construed as authorizing the supervision, regulation, or 73113
control of the spiritual care or treatment of residents or 73114
patients in any home who rely upon treatment by prayer or 73115
spiritual means in accordance with the creed or tenets of any 73116
recognized church or religious denomination. 73117

Sec. 3721.011. (A) In addition to providing accommodations, 73118
supervision, and personal care services to its residents, a 73119
residential care facility may ~~provide~~ do the following: 73120

(1) Provide the following skilled nursing care to its 73121
residents ~~as follows~~: 73122

~~(1)(a)~~ (a) Supervision of special diets; 73123

~~(2)(b)~~ (b) Application of dressings, in accordance with rules 73124
adopted under section 3721.04 of the Revised Code; 73125

~~(3)(c)~~ (c) Subject to division (B)(1) of this section, 73126
administration of medication; 73127

~~(4)~~ 73128

(2) Subject to division (C) of this section, provide other 73129
skilled nursing care ~~provided~~ on a part-time, intermittent basis 73130
for not more than a total of one hundred twenty days in a 73131

twelve-month period; 73132

~~(5) Subject to division (D) of this section, (3) Provide~~ 73133
skilled nursing care ~~provided~~ for more than one hundred twenty 73134
days in a twelve-month period to a ~~hospice patient, as defined in~~ 73135
~~section 3712.01 of the Revised Code~~ resident when the requirements 73136
of division (D) of this section are met. 73137

A residential care facility may not admit or retain an 73138
individual requiring skilled nursing care that is not authorized 73139
by this section. A residential care facility may not provide 73140
skilled nursing care beyond the limits established by this 73141
section. 73142

(B)(1) A residential care facility may admit or retain an 73143
individual requiring medication, including biologicals, only if 73144
the individual's personal physician has determined in writing that 73145
the individual is capable of self-administering the medication or 73146
the facility provides for the medication to be administered to the 73147
individual by a home health agency certified under Title XVIII of 73148
the "Social Security Act," 79 Stat. 620 (1965), 42 U.S.C.A. 1395, 73149
as amended; a hospice care program licensed under Chapter 3712. of 73150
the Revised Code; or a member of the staff of the residential care 73151
facility who is qualified to perform medication administration. 73152
Medication may be administered in a residential care facility only 73153
by the following persons authorized by law to administer 73154
medication: 73155

(a) A registered nurse licensed under Chapter 4723. of the 73156
Revised Code; 73157

(b) A licensed practical nurse licensed under Chapter 4723. 73158
of the Revised Code who holds proof of successful completion of a 73159
course in medication administration approved by the board of 73160
nursing and who administers the medication only at the direction 73161
of a registered nurse or a physician authorized under Chapter 73162

4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; 73163
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(c) A medication aide certified under Chapter 4723. of the Revised Code; 73165
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(d) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. 73167
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(2) In assisting a resident with self-administration of medication, any member of the staff of a residential care facility may do the following: 73170
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(a) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container; 73173
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(b) Assist a resident by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to section 3721.04 of the Revised Code, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident. 73175
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(c) Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident. 73180
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(C) Except as provided in division (D) of this section, a residential care facility may admit or retain individuals who require skilled nursing care beyond the supervision of special diets, application of dressings, or administration of medication, only if the care will be provided on a part-time, intermittent basis for not more than a total of one hundred twenty days in any 73188
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twelve-month period. In accordance with Chapter 119. of the Revised Code, the public health council shall adopt rules specifying what constitutes the need for skilled nursing care on a part-time, intermittent basis. The council shall adopt rules that are consistent with rules pertaining to home health care adopted by the director of job and family services for the ~~medical assistance~~ medicaid program established under Chapter 5111. of the Revised Code. Skilled nursing care provided pursuant to this division may be provided by a home health agency certified under Title XVIII of the "Social Security Act," a hospice care program licensed under Chapter 3712. of the Revised Code, or a member of the staff of a residential care facility who is qualified to perform skilled nursing care.

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

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

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

(D)(1) A residential care facility may admit or retain a ~~hospice patient~~ an individual who requires skilled nursing care for more than one hundred twenty days in any twelve-month period only if the facility has entered into a written agreement with each of the following:

(a) The individual or individual's sponsor;

(b) The individual's personal physician;

(c) Unless the individual's personal physician oversees the skilled nursing care, the provider of the skilled nursing care;

(d) If the individual is a hospice patient as defined in

section 3712.01 of the Revised Code, a hospice care program 73224
licensed under Chapter 3712. of the Revised Code. ~~The~~ 73225

~~(2) The agreement between the residential care facility and hospice program~~ required by division (D)(1) of this section shall 73226
include all of the following provisions: 73227
73228

~~(1)(a)~~ That the hospice patient individual will be provided 73229
skilled nursing care in the facility only if a determination has 73230
been made that the ~~patient's~~ individual's needs can be met at the 73231
facility; 73232

~~(2)(b)~~ That the hospice patient individual will be retained 73233
in the facility only if periodic redeterminations are made that 73234
the ~~patient's~~ individual's needs are being met at the facility; 73235

~~(3)(c)~~ That the redeterminations will be made according to a 73236
schedule specified in the agreement; 73237

~~(4) That the~~ (d) If the individual is a hospice patient, that 73238
the individual has been given an opportunity to choose the hospice 73239
care program that best meets the ~~patient's~~ individual's needs; 73240

(e) Unless the individual is a hospice patient, that the 73241
individual's personal physician has determined that the skilled 73242
nursing care the individual needs is routine. 73243

(E) Notwithstanding any other provision of this chapter, a 73244
residential care facility in which residents receive skilled 73245
nursing care pursuant to this section is not a nursing home. 73246

Sec. 3721.02. (A) The director of health shall license homes 73247
and establish procedures to be followed in inspecting and 73248
licensing homes. The director may inspect a home at any time. Each 73249
home shall be inspected by the director at least once prior to the 73250
issuance of a license and at least once every fifteen months 73251
thereafter. The state fire marshal or a township, municipal, or 73252
other legally constituted fire department approved by the marshal 73253

shall also inspect a home prior to issuance of a license, at least 73254
once every fifteen months thereafter, and at any other time 73255
requested by the director. A home does not have to be inspected 73256
prior to issuance of a license by the director, state fire 73257
marshal, or a fire department if ownership of the home is assigned 73258
or transferred to a different person and the home was licensed 73259
under this chapter immediately prior to the assignment or 73260
transfer. The director may enter at any time, for the purposes of 73261
investigation, any institution, residence, facility, or other 73262
structure that has been reported to the director or that the 73263
director has reasonable cause to believe is operating as a nursing 73264
home, residential care facility, or home for the aging without a 73265
valid license required by section 3721.05 of the Revised Code or, 73266
in the case of a county home or district home, is operating 73267
despite the revocation of its residential care facility license. 73268
The director may delegate the director's authority and duties 73269
under this chapter to any division, bureau, agency, or official of 73270
the department of health. 73271

(B) A single facility may be licensed both as a nursing home 73272
pursuant to this chapter and as an adult care facility pursuant to 73273
Chapter ~~3722~~. 5119. of the Revised Code if the director determines 73274
that the part or unit to be licensed as a nursing home can be 73275
maintained separate and discrete from the part or unit to be 73276
licensed as an adult care facility. 73277

(C) In determining the number of residents in a home for the 73278
purpose of licensing, the director shall consider all the 73279
individuals for whom the home provides accommodations as one group 73280
unless one of the following is the case: 73281

(1) The home is a home for the aging, in which case all the 73282
individuals in the part or unit licensed as a nursing home shall 73283
be considered as one group, and all the individuals in the part or 73284
unit licensed as a rest home shall be considered as another group. 73285

(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)(1) The director of health shall charge the following application fee and annual renewal licensing and inspection fee for each fifty persons or part thereof of a home's licensed capacity:

(a) For state fiscal year 2010, two hundred twenty dollars;

(b) For state fiscal year 2011, two hundred seventy dollars;

(c) For each state fiscal year thereafter, three hundred twenty dollars.

(2) 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. 73317

(E)(1) Except as otherwise provided in this section, the 73318
results of an inspection or investigation of a home that is 73319
conducted under this section, including any statement of 73320
deficiencies and all findings and deficiencies cited in the 73321
statement on the basis of the inspection or investigation, shall 73322
be used solely to determine the home's compliance with this 73323
chapter or another chapter of the Revised Code in any action or 73324
proceeding other than an action commenced under division (I) of 73325
section 3721.17 of the Revised Code. Those results of an 73326
inspection or investigation, that statement of deficiencies, and 73327
the findings and deficiencies cited in that statement shall not be 73328
used in any court or in any action or proceeding that is pending 73329
in any court and are not admissible in evidence in any action or 73330
proceeding unless that action or proceeding is an appeal of an 73331
action by the department of health under this chapter or is an 73332
action by any department or agency of the state to enforce this 73333
chapter or another chapter of the Revised Code. 73334

(2) Nothing in division (E)(1) of this section prohibits the 73335
results of an inspection or investigation conducted under this 73336
section from being used in a criminal investigation or 73337
prosecution. 73338

Sec. 3721.031. (A) The director of health may investigate any 73339
complaint the director receives concerning a home. If the director 73340
investigates a complaint, the director shall conduct an initial 73341
investigation of a complaint as a desk audit. If pursuant to the 73342
desk audit the director determines sufficient cause exists for an 73343
on-site examination, the director shall continue the investigation 73344
with an on-site examination. 73345

(B)(1) Except as required by court order, as necessary for 73346
the administration or enforcement of any statute relating to 73347

homes, or as provided in division ~~(C)~~(D) of this section, the 73348
director and any employee of the department of health shall not 73349
release any of the following information without the permission of 73350
the individual or of the individual's legal representative: 73351

(a) The identity of any patient or resident; 73352

(b) The identity of any individual who submits a complaint 73353
about a home; 73354

(c) The identity of any individual who provides the director 73355
with information about a home and has requested confidentiality; 73356

(d) Any information that reasonably would tend to disclose 73357
the identity of any individual described in division ~~(A)~~(B)(1)(a) 73358
to (c) of this section. 73359

(2) An agency or individual to whom the director is required, 73360
by court order or for the administration or enforcement of a 73361
statute relating to homes, to release information described in 73362
division ~~(A)~~(B)(1) of this section shall not release the 73363
information without the permission of the individual who would be 73364
or would reasonably tend to be identified, or of the individual's 73365
legal representative, unless the agency or individual is required 73366
to release it by division ~~(C)~~(D) of this section, by court order, 73367
or for the administration or enforcement of a statute relating to 73368
homes. 73369

~~(B)~~(C) Except as provided in division ~~(C)~~(D) of this section, 73370
any record that identifies an individual described in division 73371
~~(A)~~(B)(1)(a) to (c) of this section or that reasonably would tend 73372
to identify such an individual is not a public record for the 73373
purposes of section 149.43 of the Revised Code, and is not subject 73374
to inspection and copying under section 1347.08 of the Revised 73375
Code. 73376

~~(C)~~(D) If the director, or an agency or individual to whom 73377
the director is required by court order or for administration or 73378

enforcement of a statute relating to homes to release information 73379
described in division ~~(A)~~(B)(1) of this section, uses information 73380
in any administrative or judicial proceeding against a home that 73381
reasonably would tend to identify an individual described in 73382
division ~~(A)~~(B)(1)(a) to (c) of this section, the director, 73383
agency, or individual shall disclose that information to the home. 73384
However, the director, agency, or individual shall not disclose 73385
information that directly identifies an individual described in 73386
divisions ~~(A)~~(B)(1)(a) to (c) of this section, unless the 73387
individual is to testify in the proceedings. 73388

~~(D)~~(E) No person shall knowingly register a false complaint 73389
about a home with the director, or knowingly swear or affirm the 73390
truth of a false complaint, when the complaint is made for the 73391
purpose of incriminating another. 73392

~~(E)~~(F) An individual who in good faith submits a complaint 73393
under this section or any other provision of the Revised Code 73394
regarding a violation of this chapter, or participates in any 73395
investigation, administrative proceeding, or judicial proceeding 73396
resulting from the complaint, has the full protection against 73397
retaliatory action provided by sections 4113.51 to 4113.53 of the 73398
Revised Code. 73399

Sec. 3721.04. (A) The public health council shall adopt and 73400
publish rules governing the operation of homes, which shall have 73401
uniform application throughout the state, and shall prescribe 73402
standards for homes with respect to, but not limited to, the 73403
following matters: 73404

(1) The minimum space requirements for occupants and 73405
equipping of the buildings in which homes are housed so as to 73406
ensure healthful, safe, sanitary, and comfortable conditions for 73407
all residents, so long as they are not inconsistent with Chapters 73408
3781. and 3791. of the Revised Code or with any rules adopted by 73409

the board of building standards and by the state fire marshal;	73410
(2) The number and qualifications of personnel, including management and nursing staff, for each class of home, and the qualifications of nurse aides, as defined in section 3721.21 of the Revised Code, used by long-term care facilities, as defined in that section;	73411 73412 73413 73414 73415
(3) The medical, rehabilitative, and recreational services to be provided by each class of home;	73416 73417
(4) Dietetic services, including but not limited to sanitation, nutritional adequacy, and palatability of food;	73418 73419
(5) The personal and social services to be provided by each class of home;	73420 73421
(6) The business and accounting practices to be followed and the type of patient and business records to be kept by such homes;	73422 73423
(7) The operation of adult day-care programs provided by and on the same site as homes licensed under this chapter;	73424 73425
(8) The standards and procedures to be followed by residential care facilities in admitting and retaining a resident who requires the application of dressings, including requirements for charting and evaluating on a weekly basis;	73426 73427 73428 73429
(9) The requirements for conducting weekly evaluations of residents receiving skilled nursing care in residential care facilities.	73430 73431 73432
(B) The public health council may adopt whatever additional rules are necessary to carry out or enforce the provisions of sections 3721.01 to 3721.09 and 3721.99 of the Revised Code.	73433 73434 73435
(C) The following apply to the public health council when adopting rules under division (A)(2) of this section regarding the number and qualifications of personnel in homes:	73436 73437 73438
(1) When adopting rules applicable to residential care	73439

facilities, the public health council shall take into 73440
consideration the effect that the following may have on the number 73441
of personnel needed: 73442

(a) Provision of personal care services; 73443

(b) Provision of part-time, intermittent skilled nursing care 73444
pursuant to division (C) of section 3721.011 of the Revised Code; 73445

(c) Provision of skilled nursing care to ~~hospice patients~~ 73446
residents pursuant to division (D) of section 3721.011 of the 73447
Revised Code. 73448

(2) The rules prescribing qualifications of nurse aides used 73449
by long-term care facilities, as those terms are defined in 73450
section 3721.21 of the Revised Code, shall be no less stringent 73451
than the requirements, guidelines, and procedures established by 73452
the United States secretary of health and human services under 73453
sections 1819 and 1919 of the "Social Security Act," 49 Stat. 620 73454
(1935), 42 U.S.C.A. 301, as amended. 73455

Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the 73456
Revised Code: 73457

(A) "Franchise permit fee rate" means the ~~amount determined~~ 73458
~~as follows~~ following: 73459

(1) ~~Determine the difference between the following:~~ 73460

~~(a) The total net patient revenue, less medicaid per diem 73461
payments, of all nursing homes and hospital long term care units 73462
as shown on cost reports filed under section 5111.26 of the 73463
Revised Code for the calendar year immediately preceding the 73464
fiscal year for which the franchise permit fee is assessed under 73465
section 3721.51 of the Revised Code For fiscal year 2012, eleven 73466
dollars and thirty-eight cents; 73467~~

~~(b) The total net patient revenue, less medicaid per diem 73468
payments, of all nursing homes and hospital long term care units 73469~~

~~as shown on cost reports filed under section 5111.26 of the Revised Code for the calendar year immediately preceding the calendar year that immediately precedes the fiscal year for which the franchise permit fee is assessed under section 3721.51 of the Revised Code.~~

~~(2) Multiply the amount determined under division (A)(1) of this section by five and five tenths per cent;~~

~~(3) Divide the amount determined under division (A)(2) of this section by the total number of days in the fiscal year for which the franchise permit fee is assessed under section 3721.51 of the Revised Code;~~

~~(4) Subtract eleven dollars and ninety five cents from the amount determined under division (A)(3) of this section;~~

~~(5) Add eleven dollars and ninety five cents to the amount determined under division (A)(4) of this section For fiscal year 2013 and each fiscal year thereafter, eleven dollars and sixty cents.~~

(B) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(C) "Hospital long-term care unit" means any distinct part of a hospital in which any of the following beds are located:

(1) Beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds;

(2) Beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code.

(D) "Indirect guarantee percentage" means the percentage specified in section 1903(w)(4)(C)(ii) of the "Social Security Act," 120 Stat. 2994 (2006), 42 U.S.C. 1396b(w)(4)(C)(ii) that is to be used in determining whether a class of providers is

indirectly held harmless for any portion of the costs of a 73500
broad-based health-care-related tax. If the indirect guarantee 73501
percentage changes during a fiscal year, the indirect guarantee 73502
percentage is the following: 73503

(1) For the part of the fiscal year before the change takes 73504
effect, the percentage in effect before the change; 73505

(2) For the part of the fiscal year beginning with the date 73506
the indirect guarantee percentage changes, the new percentage. 73507

(E) "Inpatient days" means all days during which a resident 73508
of a nursing facility, regardless of payment source, occupies a 73509
bed in the nursing facility that is included in the facility's 73510
certified capacity under Title XIX. Therapeutic or hospital leave 73511
days for which payment is made under section 5111.26 of the 73512
Revised Code are considered inpatient days proportionate to the 73513
percentage of the facility's per resident per day rate paid for 73514
those days. 73515

~~(E)~~(F) "Medicaid" has the same meaning as in section 5111.01 73516
of the Revised Code. 73517

~~(F)~~(G) "Medicaid day" means all days during which a resident 73518
who is a medicaid recipient occupies a bed in a nursing facility 73519
that is included in the facility's certified capacity under Title 73520
XIX. Therapeutic or hospital leave days for which payment is made 73521
under section 5111.26 of the Revised Code are considered medicaid 73522
days proportionate to the percentage of the nursing facility's per 73523
resident per day rate for those days. 73524

~~(G)~~(H) "Medicare" means the program established by Title 73525
XVIII. 73526

~~(H)~~(I) "Nursing facility" has the same meaning as in section 73527
5111.20 of the Revised Code. 73528

~~(I)~~(J)(1) "Nursing home" means all of the following: 73529

(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;

(c) A nursing facility, other than a portion of a hospital certified as a nursing facility.

(2) "Nursing home" does not include any of the following:

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code;

(b) A nursing home maintained and operated by the department of veterans services under section 5907.01 of the Revised Code;

(c) A nursing home or part of a nursing home licensed under section 3721.02 or 3721.09 of the Revised Code that is certified as an intermediate care facility for the mentally retarded under Title XIX.

~~(J)~~(K) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

~~(K)~~(L) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

Sec. 3721.51. The department of job and family services shall do all of the following:

(A) Subject to sections 3721.512 and 3721.513 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in ~~sections~~ section 3721.56 ~~and 3721.561~~ of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to the franchise permit fee rate multiplied by the product of the following:

(1) The number of beds licensed as nursing home beds, plus

any other beds certified as skilled nursing facility beds under 73559
Title XVIII or nursing facility beds under Title XIX on the first 73560
day of May of the calendar year in which the fee is determined 73561
pursuant to division (A) of section 3721.53 of the Revised Code; 73562

(2) The number of days in the fiscal year beginning on the 73563
first day of July of the calendar year in which the fee is 73564
determined pursuant to division (A) of section 3721.53 of the 73565
Revised Code. 73566

(B) Subject to sections 3721.512 and 3721.513 of the Revised 73567
Code and divisions (C) and (D) of this section and for the 73568
purposes specified in ~~sections~~ section 3721.56 ~~and 3721.561~~ of the 73569
Revised Code, determine an annual franchise permit fee on each 73570
hospital in an amount equal to the franchise permit fee rate 73571
multiplied by the product of the following: 73572

(1) The number of beds registered pursuant to section 3701.07 73573
of the Revised Code as skilled nursing facility beds or long-term 73574
care beds, plus any other beds licensed as nursing home beds under 73575
section 3721.02 or 3721.09 of the Revised Code, on the first day 73576
of May of the calendar year in which the fee is determined 73577
pursuant to division (A) of section 3721.53 of the Revised Code; 73578

(2) The number of days in the fiscal year beginning on the 73579
first day of July of the calendar year in which the fee is 73580
determined pursuant to division (A) of section 3721.53 of the 73581
Revised Code. 73582

(C) If the total amount of the franchise permit fee assessed 73583
under divisions (A) and (B) of this section for a fiscal year 73584
exceeds ~~five and one half per cent~~ the indirect guarantee 73585
percentage of the actual net patient revenue for all nursing homes 73586
and hospital long-term care units for that fiscal year, do both of 73587
the following: 73588

(1) Recalculate the assessments under divisions (A) and (B) 73589

of this section using a per bed per day rate equal to ~~five and~~ 73590
~~one-half per cent~~ the indirect guarantee percentage of actual net 73591
patient revenue for all nursing homes and hospital long-term care 73592
units for that fiscal year; 73593

(2) Refund the difference between the amount of the franchise 73594
permit fee assessed for that fiscal year under divisions (A) and 73595
(B) of this section and the amount recalculated under division 73596
(C)(1) of this section as a credit against the assessments imposed 73597
under divisions (A) and (B) of this section for the subsequent 73598
fiscal year. 73599

(D) If the United States centers for medicare and medicaid 73600
services determines that the franchise permit fee established by 73601
sections 3721.50 to 3721.58 of the Revised Code is an 73602
impermissible health care-related tax under section 1903(w) of the 73603
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 73604
amended, take all necessary actions to cease implementation of 73605
sections 3721.50 to 3721.58 of the Revised Code in accordance with 73606
rules adopted under section 3721.58 of the Revised Code. 73607

Sec. ~~3721.561~~ 3721.56. (A) There is hereby created in the 73608
state treasury the nursing ~~facility stabilization~~ home franchise 73609
permit fee fund. All payments and penalties paid by nursing homes 73610
and hospitals under sections 3721.53 and 3721.54 of the Revised 73611
Code ~~that are not deposited into the home and community based~~ 73612
~~services for the aged fund~~ shall be deposited into the fund. The 73613
fund shall also consist of money deposited into it pursuant to 73614
sections 3769.08 and 3769.26 of the Revised Code. Subject to 73615
division (B) of section 3769.08 of the Revised Code, the 73616
department of job and family services shall use the money in the 73617
fund to make medicaid payments to providers of nursing facilities 73618
facility services and providers of home and community-based 73619
services. Money in the fund may also be used for the residential 73620

state supplement program established under section 5119.69 of the 73621
Revised Code. 73622

(B) Any money remaining in the nursing ~~facility stabilization~~ 73623
home franchise permit fee fund after payments specified in 73624
division (A) of this section are made shall be retained in the 73625
fund. Any interest or other investment proceeds earned on money in 73626
the fund shall be credited to the fund and used to make medicaid 73627
payments in accordance with division (A) of this section. 73628

Sec. 3721.58. The director of job and family services shall 73629
adopt rules in accordance with Chapter 119. of the Revised Code to 73630
do ~~all~~ both of the following: 73631

(A) Prescribe the actions the department of job and family 73632
services will take to cease implementation of sections 3721.50 73633
through 3721.57 of the Revised Code if the United States centers 73634
for medicare and medicaid services determines that the franchise 73635
permit fee established by those sections is an impermissible 73636
health-care related tax under section 1903(w) of the "Social 73637
Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 73638
amended; 73639

(B) ~~Establish the method of distributing moneys in the home~~ 73640
~~and community based services for the aged fund created under~~ 73641
~~section 3721.56 of the Revised Code;~~ 73642

~~(C)~~ Establish any requirements or procedures the director 73643
considers necessary to implement sections 3721.50 to 3721.58 of 73644
the Revised Code. 73645

Sec. 3721.99. (A) Whoever violates section 3721.021, division 73646
(B), (D), or (E) of section 3721.05, division (A), (C), or (D) of 73647
section 3721.051, section 3721.06, division (A) of section 73648
3721.22, division (A) or (B) of section 3721.24, or division (E) 73649

or (F) of section 3721.30 of the Revised Code shall be fined one 73650
hundred dollars for a first offense. For each subsequent offense, 73651
the violator shall be fined five hundred dollars. 73652
73653

(B) Whoever violates division (A) or (C) of section 3721.05 73654
or division (B) of section 3721.051 of the Revised Code shall be 73655
fined five thousand dollars for a first offense. For each 73656
subsequent offense, the violator shall be fined ten thousand 73657
dollars. 73658

(C) Whoever violates division ~~(D)~~(E) of section 3721.031 or 73659
division (E) of section 3721.22 of the Revised Code is guilty of 73660
registering a false complaint, a misdemeanor of the first degree. 73661

Sec. 3729.01. As used in this chapter: 73662

(A) "Camp operator" means the operator of a recreational 73663
vehicle park, recreation camp, combined park-camp, or temporary 73664
park-camp. 73665

(B) "Campsite user" means a person who enters into a campsite 73666
use agreement with a camp operator for the use of a campsite at a 73667
recreational vehicle park, recreation camp, combined park-camp, or 73668
temporary park-camp. 73669

(C) "Combined park-camp" means any tract of land upon which a 73670
combination of five or more self-contained recreational vehicles 73671
or portable camping units are placed and includes any roadway, 73672
building, structure, vehicle, or enclosure used or intended for 73673
use as part of the park facilities. A tract of land that is 73674
subdivided for lease or other contract of the individual lots is a 73675
combined park-camp if a combination of five or more recreational 73676
vehicles or portable camping units are placed on it for 73677
recreation, vacation, or business purposes. 73678

"Combined park-camp" does not include any tract of land used 73679

solely as a temporary park-camp or solely as a manufactured home park. 73680
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(D) "Dependent recreational vehicle" means a recreational vehicle other than a self-contained recreational vehicle. 73682
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"Dependent recreational vehicle" includes a park model. 73684

(E) "Development" means any artificial change to improved or unimproved real estate, including, without limitation, buildings or structures, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, and the construction, expansion, or substantial alteration of a recreational vehicle park, recreation camp, or combined park-camp, for which plan review is required under division (A) of section 3729.03 of the Revised Code. "Development" does not include the building, construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable. 73685
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(F) "Director of health" means the director of health or the director's authorized representative. 73695
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(G) "Flood" or "flooding" means either of the following: 73697

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from any of the following: 73698
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(a) The overflow of inland or tidal waters; 73700

(b) The unusual and rapid accumulation or runoff of surface waters from any source; 73701
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(c) Mudslides that are proximately caused by flooding as defined in division (G)(1)(b) of this section and that are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. 73703
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(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining 73708
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that is caused by waves or currents of water exceeding anticipated 73710
cyclical levels or that is suddenly caused by an unusually high 73711
water level in a natural body of water, and that is accompanied by 73712
a severe storm, by an unanticipated force of nature, such as a 73713
flash flood, by an abnormal tidal surge, or by some similarly 73714
unusual and unforeseeable event, that results in flooding as 73715
defined in division (G)(1)(a) of this section. 73716

(H) "Flood plain" means the area adjoining any river, stream, 73717
watercourse, or lake that has been or may be covered by flood 73718
water. 73719

(I) "Licensor" means either the board of health of a city or 73720
general health district, or the authority having the duties of a 73721
board of health in any city as authorized by section 3709.05 of 73722
the Revised Code, or the director of health, when required under 73723
division (B) of section 3729.06 of the Revised Code. "Licensor" 73724
also means an authorized representative of any of those entities 73725
or of the director. 73726

(J) "Manufactured home park" has the same meaning as in 73727
section ~~3733.01~~ 4781.01 of the Revised Code. 73728

(K) "One-hundred-year flood" means a flood having a one per 73729
cent chance of being equaled or exceeded in any given year. 73730

(L) "One-hundred-year flood plain" means that portion of a 73731
flood plain inundated by a one-hundred-year flood. 73732

(M) "Operator" means the person who has responsible charge of 73733
a recreational vehicle park, recreation camp, combined park-camp, 73734
or temporary park-camp and who is licensed under this chapter. 73735

(N) "Park model" means a recreational vehicle that meets the 73736
American national standard institute standard A119.5(1988) for 73737
park trailers, is built on a single chassis, has a gross trailer 73738
area of not more than four hundred square feet when set up, is 73739
designed for seasonal or temporary living quarters, and may be 73740

connected to utilities necessary for operation of installed 73741
features and appliances. 73742

(O) "Person" has the same meaning as in section 1.59 of the 73743
Revised Code and also includes this state, any political 73744
subdivision of this state, and any other state or local body of 73745
this state. 73746

(P) "Portable camping units" means dependent recreational 73747
vehicles, tents, portable sleeping equipment, and similar camping 73748
equipment used for travel, recreation, vacation, or business 73749
purposes. 73750

(Q) "Recreation camp" means any tract of land upon which five 73751
or more portable camping units are placed and includes any 73752
roadway, building, structure, vehicle, or enclosure used or 73753
intended for use as a part of the facilities of the camp. A tract 73754
of land that is subdivided for lease or other contract of the 73755
individual lots is a recreation camp if five or more portable 73756
camping units are placed on it for recreation, vacation, or 73757
business purposes. 73758

"Recreation camp" does not include any tract of land used 73759
solely for the storage or display for sale of dependent 73760
recreational vehicles, solely as a temporary park-camp, or solely 73761
as a manufactured home park. 73762

(R) "Recreational vehicle" has the same meaning as in section 73763
4501.01 of the Revised Code. 73764

(S) "Recreational vehicle park" means any tract of land used 73765
for parking five or more self-contained recreational vehicles and 73766
includes any roadway, building, structure, vehicle, or enclosure 73767
used or intended for use as part of the park facilities and any 73768
tract of land that is subdivided for lease or other contract of 73769
the individual lots for the express or implied purpose of placing 73770
self-contained recreational vehicles for recreation, vacation, or 73771

business purposes. 73772

"Recreational vehicle park" does not include any tract of 73773
land used solely for the storage or display for sale of 73774
self-contained recreational vehicles, solely as a temporary 73775
park-camp, or solely as a manufactured home park. 73776

(T) "Self-contained recreational vehicle" means a 73777
recreational vehicle that can operate independent of connections 73778
to sewer and water and has plumbing fixtures or appliances all of 73779
which are connected to sewage holding tanks located within the 73780
vehicle. "Self-contained recreational vehicle" includes a park 73781
model. 73782

(U) "Substantially alter" means a change in the layout or 73783
design of a recreational vehicle park, recreation camp, combined 73784
park-camp, or temporary park-camp, including, without limitation, 73785
the movement of utilities or changes in established streets, lots, 73786
or sites or in other facilities. 73787

(V) "Temporary park-camp" means any tract of land used for a 73788
period not to exceed a total of twenty-one days per calendar year 73789
for the purpose of parking five or more recreational vehicles, 73790
dependent recreational vehicles, or portable camping units, or any 73791
combination thereof, for one or more periods of time that do not 73792
exceed seven consecutive days or parts thereof. 73793

(W) "Tract" means a contiguous area of land that consists of 73794
one or more parcels, lots, or sites that have been separately 73795
surveyed regardless of whether the individual parcels, lots, or 73796
sites have been recorded and regardless of whether the one or more 73797
parcels, lots, or sites are under common or different ownership. 73798

Sec. 3733.21. ~~(A) As used in sections 3733.21 to 3733.30 of~~ 73799
~~the Revised Code this section:~~ 73800

~~(A)(1)~~ "Board of health" means the board of health of a city 73801

or general health district or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code.

~~(B) "Director" means the director of health or his authorized representative.~~

~~(C)(2)~~ "Dock" means a structure or platform either parallel or perpendicular to the shoreline designed to provide access to or an area to secure watercraft.

~~(D)(3)~~ "Health district" means a city or general health district as created by or under authority of Chapter 3709. of the Revised Code.

~~(E)(4)~~ "Marina" means a boat basin that has docks or moorings for seven or more watercraft as defined in section 1547.01 of the Revised Code. "Marina" does not include:

~~(1)(a)~~ Any dock or mooring contiguous to a privately owned residence and used exclusively by the owner and the owner's guests;

~~(2)(b)~~ Any dock, mooring, or other area where watercraft are stored or in storage;

~~(3)(c)~~ Any dry dock or shipyard where the watercraft are being held for maintenance or repairs;

~~(4)(d)~~ Any boat basin where all of the watercraft moored are rowboats, canoes, pedal boats, or other watercraft propelled by human muscular effort;

~~(5)(e)~~ Any dock or mooring on inland lakes used by the owner, or guests of the owner, of a private residence located on land that is contiguous to land, owned by this state or an agency or political subdivision of this state, contiguous to the dock or mooring;

~~(6)(f)~~ Any boat basin located on waters where the watercraft

used are normally unsuited for the installation of on-board 73832
permanent sanitary systems. 73833

~~(F)(5)~~ "Mooring" means that portion of a dock, or any 73834
equipment or area, used to secure watercraft. 73835

~~(G)~~ "Person" means the state or any political subdivision, 73836
special district, public or private corporation, individual, firm, 73837
partnership, association, or other entity. 73838

~~(H)~~ "Public health council" means the public health council 73839
as created by section 3701.33 of the Revised Code. 73840

~~(I)~~ "Sanitary facilities" includes restrooms, water supply, 73841
facilities for the pumping of watercraft holding tanks, and those 73842
other facilities to ensure the sanitary operation of marinas and 73843
the watercraft using them as are considered necessary by the 73844
public health council in rules adopted under section 3733.22 of 73845
the Revised Code. 73846

(B) A board of health within whose jurisdiction a marina is 73847
located shall adopt rules governing the inspection of and issuance 73848
of licenses for marinas. The rules shall require at a minimum 73849
annual inspections. The rules may include provisions for the 73850
levying of a fee for a marina license. The fee shall be 73851
established in accordance with section 3709.09 of the Revised 73852
Code. 73853

Sec. 3733.41. As used in sections 3733.41 to ~~3733.49~~ 3733.43 73854
of the Revised Code: 73855

(A) "Agricultural labor camp" means one or more buildings or 73856
structures, trailers, tents, or vehicles, together with any land 73857
appertaining thereto, established, operated, or used as temporary 73858
living quarters for two or more families or five or more persons 73859
intending to engage in or engaged in agriculture or related food 73860
processing, whether occupancy is by rent, lease, or mutual 73861

agreement. "Agricultural labor camp" does not include a hotel or 73862
motel, or a ~~trailer~~ manufactured home park ~~as defined and~~ 73863
regulated pursuant to sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.52 73864
of the Revised Code, and rules adopted thereunder. 73865

(B) "Board of health" means the board of health of a city or 73866
general health district or the authority having the duties of a 73867
board of health in any city as authorized by section 3709.05 of 73868
the Revised Code or an authorized representative of the board of 73869
health. 73870

~~(C) "Director" means the director of the department of health~~ 73871
~~or his authorized representative.~~ 73872

~~(D) "Licensor" means the director of health.~~ 73873

~~(E) "Person" means the state, any political subdivision,~~ 73874
~~public or private corporation, partnership, association, trust,~~ 73875
~~individual, or other entity.~~ 73876

~~(F) "Public health council" means the public health council~~ 73877
~~as created by section 3701.33 of the Revised Code.~~ 73878

Sec. 3733.42. A board of health within whose jurisdiction an 73879
agricultural labor camp is located shall adopt rules governing the 73880
inspection of and issuance of licenses for agricultural labor 73881
camps. The rules shall require at a minimum annual inspections. 73882
The rules may include provisions for the levying of a fee for an 73883
agricultural labor camp license. The fee shall be established in 73884
accordance with section 3709.09 of the Revised Code. 73885

~~Sec. 3733.49~~ 3733.43. (A) There is hereby established under 73886
the authority of the director of job and family services the 73887
office of the migrant agricultural ombudsperson. The director 73888
shall appoint the ombudsperson. No person shall serve as 73889
ombudsperson who has a fiduciary or pecuniary interest in an 73890
agricultural labor camp. The ombudsperson shall have recognized 73891

ability and experience in migrant labor issues and shall speak 73892
both English and Spanish fluently. The ombudsperson shall be a 73893
member of the classified civil service and shall be subject to an 73894
annual job evaluation by the director. The ombudsperson's salary 73895
shall be established in a pay range fixed by the director. 73896

(B) The migrant agricultural ombudsperson shall: 73897

(1) Collect and compile available data, statistics, and 73898
information concerning migrant agricultural laborers and 73899
agricultural labor camps published by any agency of this state, 73900
any agency of the federal government, and private organizations, 73901
including, but not limited to, churches and Hispanic 73902
organizations. These data, statistics, and information are public 73903
records as defined in section 149.43 of the Revised Code. 73904

(2) Coordinate the collection, analysis, and dissemination of 73905
information about the supply and quality of housing for migrant 73906
agricultural laborers in both licensed and unlicensed camps; 73907

(3) Become familiar with state and federal laws and rules 73908
concerning migrant agricultural laborers and agricultural labor 73909
camps and especially with state and federal programs for which 73910
migrant agricultural laborers might qualify; 73911

(4) Establish a toll-free telephone number that: 73912

(a) Camp owners and farmers who employ migrant agricultural 73913
laborers may use to seek clarification of laws and rules 73914
applicable to camps and for registering complaints; and 73915

(b) Migrant agricultural laborers may use for the purpose of 73916
obtaining information described in divisions (B)(1) and (2) of 73917
this section and for registering complaints. 73918

(5) Refer problems, complaints, or questions brought to the 73919
ombudsperson's attention to the appropriate state or federal 73920
agency or the attorney general; 73921

(6) Serve as an advocate for migrant agricultural laborers in social service matters; 73922
73923

(7) Submit an annual report to the president of the senate, the speaker of the house of representatives, and the members of the minority leadership of the senate and house of representatives on or before the thirtieth day of June of each year describing migrant agricultural labor conditions found by the ombudsperson's office, along with an assessment of the effect of existing law on migrant agricultural labor and labor camps and any recommendations for change. The report shall contain a compilation of the kinds of complaints received and recommendations for any changes in the laws or rules that the ombudsperson considers necessary or desirable. 73924
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(8) Develop and recommend to the general assembly definitions of "migrant agricultural laborer" and "migrant farmworker child" to be used consistently by all state agencies, including, but not limited to, boards, departments, divisions, commissions, bureaus, societies, councils, and institutions; and 73935
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(9) Conduct a peak-period census of migrant agricultural laborers in this state, by county, so that the ombudsperson can properly assess the need for housing for those laborers. The department of health shall assist the ombudsperson by providing information on the peak occupancy of agricultural labor camps and other additional information obtained through inspections of agricultural labor camps. 73940
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Sec. 3734.02. (A) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules having uniform application throughout the state governing solid waste facilities and the inspections of and issuance of permits and licenses for all solid waste facilities in order to ensure that the facilities 73947
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will be located, maintained, and operated, and will undergo 73953
closure and post-closure care, in a sanitary manner so as not to 73954
create a nuisance, cause or contribute to water pollution, create 73955
a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 73956
257.3-8, as amended. The rules may include, without limitation, 73957
financial assurance requirements for closure and post-closure care 73958
and corrective action and requirements for taking corrective 73959
action in the event of the surface or subsurface discharge or 73960
migration of explosive gases or leachate from a solid waste 73961
facility, or of ground water contamination resulting from the 73962
transfer or disposal of solid wastes at a facility, beyond the 73963
boundaries of any area within a facility that is operating or is 73964
undergoing closure or post-closure care where solid wastes were 73965
disposed of or are being disposed of. The rules shall not concern 73966
or relate to personnel policies, salaries, wages, fringe benefits, 73967
or other conditions of employment of employees of persons owning 73968
or operating solid waste facilities. The director, in accordance 73969
with Chapter 119. of the Revised Code, shall adopt and may amend, 73970
suspend, or rescind rules governing the issuance, modification, 73971
revocation, suspension, or denial of variances from the director's 73972
solid waste rules, including, without limitation, rules adopted 73973
under this chapter governing the management of scrap tires. 73974

Variances shall be issued, modified, revoked, suspended, or 73975
rescinded in accordance with this division, rules adopted under 73976
it, and Chapter 3745. of the Revised Code. The director may order 73977
the person to whom a variance is issued to take such action within 73978
such time as the director may determine to be appropriate and 73979
reasonable to prevent the creation of a nuisance or a hazard to 73980
the public health or safety or the environment. Applications for 73981
variances shall contain such detail plans, specifications, and 73982
information regarding objectives, procedures, controls, and other 73983
pertinent data as the director may require. The director shall 73984
grant a variance only if the applicant demonstrates to the 73985

director's satisfaction that construction and operation of the 73986
solid waste facility in the manner allowed by the variance and any 73987
terms or conditions imposed as part of the variance will not 73988
create a nuisance or a hazard to the public health or safety or 73989
the environment. In granting any variance, the director shall 73990
state the specific provision or provisions whose terms are to be 73991
varied and also shall state specific terms or conditions imposed 73992
upon the applicant in place of the provision or provisions. The 73993
director may hold a public hearing on an application for a 73994
variance or renewal of a variance at a location in the county 73995
where the operations that are the subject of the application for 73996
the variance are conducted. The director shall give not less than 73997
twenty days' notice of the hearing to the applicant by certified 73998
mail and shall publish at least one notice of the hearing in a 73999
newspaper with general circulation in the county where the hearing 74000
is to be held. The director shall make available for public 74001
inspection at the principal office of the environmental protection 74002
agency a current list of pending applications for variances and a 74003
current schedule of pending variance hearings. The director shall 74004
make a complete stenographic record of testimony and other 74005
evidence submitted at the hearing. Within ten days after the 74006
hearing, the director shall make a written determination to issue, 74007
renew, or deny the variance and shall enter the determination and 74008
the basis for it into the record of the hearing. The director 74009
shall issue, renew, or deny an application for a variance or 74010
renewal of a variance within six months of the date upon which the 74011
director receives a complete application with all pertinent 74012
information and data required. No variance shall be issued, 74013
revoked, modified, or denied until the director has considered the 74014
relative interests of the applicant, other persons and property 74015
affected by the variance, and the general public. Any variance 74016
granted under this division shall be for a period specified by the 74017
director and may be renewed from time to time on such terms and 74018

for such periods as the director determines to be appropriate. No 74019
application shall be denied and no variance shall be revoked or 74020
modified without a written order stating the findings upon which 74021
the denial, revocation, or modification is based. A copy of the 74022
order shall be sent to the applicant or variance holder by 74023
certified mail. 74024

(B) The director shall prescribe and furnish the forms 74025
necessary to administer and enforce this chapter. The director may 74026
cooperate with and enter into agreements with other state, local, 74027
or federal agencies to carry out the purposes of this chapter. The 74028
director may exercise all incidental powers necessary to carry out 74029
the purposes of this chapter. 74030

The director may use moneys in the infectious waste 74031
management fund created in section 3734.021 of the Revised Code 74032
exclusively for administering and enforcing the provisions of this 74033
chapter governing the management of infectious wastes. Of each 74034
registration and renewal fee collected under rules adopted under 74035
division (A)(2)(a) of section 3734.021 or under section 3734.022 74036
of the Revised Code, the director, within forty-five days of its 74037
receipt, shall remit from the fund one-half of the fee received to 74038
the board of health of the health district in which the registered 74039
premises is located, or, in the instance of an infectious wastes 74040
transporter, to the board of health of the health district in 74041
which the transporter's principal place of business is located. 74042
However, if the board of health having jurisdiction over a 74043
registrant's premises or principal place of business is not on the 74044
approved list under section 3734.08 of the Revised Code, the 74045
director shall not make that payment to the board of health. 74046

(C) Except as provided in this division and divisions (N)(2) 74047
and (3) of this section, no person shall establish a new solid 74048
waste facility or infectious waste treatment facility, or modify 74049
an existing solid waste facility or infectious waste treatment 74050

facility, without submitting an application for a permit with 74051
accompanying detail plans, specifications, and information 74052
regarding the facility and method of operation and receiving a 74053
permit issued by the director, except that no permit shall be 74054
required under this division to install or operate a solid waste 74055
facility for sewage sludge treatment or disposal when the 74056
treatment or disposal is authorized by a current permit issued 74057
under Chapter 3704. or 6111. of the Revised Code. 74058

No person shall continue to operate a solid waste facility 74059
for which the director has denied a permit for which an 74060
application was required under division (A)(3) of section 3734.05 74061
of the Revised Code, or for which the director has disapproved 74062
plans and specifications required to be filed by an order issued 74063
under division (A)(5) of that section, after the date prescribed 74064
for commencement of closure of the facility in the order issued 74065
under division (A)(6) of section 3734.05 of the Revised Code 74066
denying the permit application or approval. 74067

On and after the effective date of the rules adopted under 74068
division (A) of this section and division (D) of section 3734.12 74069
of the Revised Code governing solid waste transfer facilities, no 74070
person shall establish a new, or modify an existing, solid waste 74071
transfer facility without first submitting an application for a 74072
permit with accompanying engineering detail plans, specifications, 74073
and information regarding the facility and its method of operation 74074
to the director and receiving a permit issued by the director. 74075

No person shall establish a new compost facility or continue 74076
to operate an existing compost facility that accepts exclusively 74077
source separated yard wastes without submitting a completed 74078
registration for the facility to the director in accordance with 74079
rules adopted under divisions (A) and (N)(3) of this section. 74080

This division does not apply to an infectious waste treatment 74081
facility that meets any of the following conditions: 74082

(1) Is owned or operated by the generator of the wastes and 74083
exclusively treats, by methods, techniques, and practices 74084
established by rules adopted under division (C)(1) or (3) of 74085
section 3734.021 of the Revised Code, wastes that are generated at 74086
any premises owned or operated by that generator regardless of 74087
whether the wastes are generated on the premises where the 74088
generator's treatment facility is located or, if the generator is 74089
a hospital as defined in section 3727.01 of the Revised Code, 74090
infectious wastes that are described in division (A)(1)(g), (h), 74091
or (i) of section 3734.021 of the Revised Code; 74092

(2) Holds a license or renewal of a license to operate a 74093
crematory facility issued under Chapter 4717. and a permit issued 74094
under Chapter 3704. of the Revised Code; 74095

(3) Treats or disposes of dead animals or parts thereof, or 74096
the blood of animals, and is subject to any of the following: 74097

(a) Inspection under the "Federal Meat Inspection Act," 81 74098
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 74099

(b) Chapter 918. of the Revised Code; 74100

(c) Chapter 953. of the Revised Code. 74101

(D) Neither this chapter nor any rules adopted under it apply 74102
to single-family residential premises; to infectious wastes 74103
generated by individuals for purposes of their own care or 74104
treatment that are disposed of with solid wastes from the 74105
individual's residence; to the temporary storage of solid wastes, 74106
other than scrap tires, prior to their collection for disposal; to 74107
the storage of one hundred or fewer scrap tires unless they are 74108
stored in such a manner that, in the judgment of the director or 74109
the board of health of the health district in which the scrap 74110
tires are stored, the storage causes a nuisance, a hazard to 74111
public health or safety, or a fire hazard; or to the collection of 74112
solid wastes, other than scrap tires, by a political subdivision 74113

or a person holding a franchise or license from a political subdivision of the state; to composting, as defined in section 1511.01 of the Revised Code, conducted in accordance with section 1511.022 of the Revised Code; or to any person who is licensed to transport raw rendering material to a compost facility pursuant to section 953.23 of the Revised Code.

(E)(1) As used in this division:

(a) "On-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated on the premises of the facility.

(b) "Off-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated off the premises of the facility and includes such a facility that is also an on-site facility.

(c) "Satellite facility" means any of the following:

(i) An on-site facility that also receives hazardous waste from other premises owned by the same person who generates the waste on the facility premises;

(ii) An off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility;

(iii) An on-site facility that also receives hazardous waste that is transported uninterruptedly and directly to the facility through a pipeline from a generator who is not the owner of the facility.

(2) Except as provided in division (E)(3) of this section, no person shall establish or operate a hazardous waste facility, or use a solid waste facility for the storage, treatment, or disposal of any hazardous waste, without a hazardous waste facility installation and operation permit issued in accordance with

section 3734.05 of the Revised Code and subject to the payment of 74144
an application fee not to exceed one thousand five hundred 74145
dollars, payable upon application for a hazardous waste facility 74146
installation and operation permit and upon application for a 74147
renewal permit issued under division (H) of section 3734.05 of the 74148
Revised Code, to be credited to the hazardous waste facility 74149
management fund created in section 3734.18 of the Revised Code. 74150
The term of a hazardous waste facility installation and operation 74151
permit shall not exceed ten years. 74152

In addition to the application fee, there is hereby levied an 74153
annual permit fee to be paid by the permit holder upon the 74154
anniversaries of the date of issuance of the hazardous waste 74155
facility installation and operation permit and of any subsequent 74156
renewal permits and to be credited to the hazardous waste facility 74157
management fund. Annual permit fees totaling forty thousand 74158
dollars or more for any one facility may be paid on a quarterly 74159
basis with the first quarterly payment each year being due on the 74160
anniversary of the date of issuance of the hazardous waste 74161
facility installation and operation permit and of any subsequent 74162
renewal permits. The annual permit fee shall be determined for 74163
each permit holder by the director in accordance with the 74164
following schedule: 74165

TYPE OF BASIC				74166
MANAGEMENT UNIT	TYPE OF FACILITY		FEE	74167
Storage facility using:				74168
Containers	On-site, off-site, and			74169
	satellite		\$ 500	74170
Tanks	On-site, off-site, and			74171
	satellite		500	74172
Waste pile	On-site, off-site, and			74173
	satellite		3,000	74174
Surface impoundment	On-site and satellite		8,000	74175

	Off-site	10,000	74176
Disposal facility using:			74177
Deep well injection	On-site and satellite	15,000	74178
	Off-site	25,000	74179
Landfill	On-site and satellite	25,000	74180
	Off-site	40,000	74181
Land application	On-site and satellite	2,500	74182
	Off-site	5,000	74183
Surface impoundment	On-site and satellite	10,000	74184
	Off-site	20,000	74185
Treatment facility using:			74186
Tanks	On-site, off-site, and		74187
	satellite	700	74188
Surface impoundment	On-site and satellite	8,000	74189
	Off-site	10,000	74190
Incinerator	On-site and satellite	5,000	74191
	Off-site	10,000	74192
Other forms			74193
of treatment	On-site, off-site, and		74194
	satellite	1,000	74195

A hazardous waste disposal facility that disposes of hazardous waste by deep well injection and that pays the annual permit fee established in section 6111.046 of the Revised Code is not subject to the permit fee established in this division for disposal facilities using deep well injection unless the director determines that the facility is not in compliance with applicable requirements established under this chapter and rules adopted under it.

In determining the annual permit fee required by this section, the director shall not require additional payments for multiple units of the same method of storage, treatment, or disposal or for individual units that are used for both storage and treatment. A facility using more than one method of storage,

treatment, or disposal shall pay the permit fee indicated by the 74209
schedule for each such method. 74210

The director shall not require the payment of that portion of 74211
an annual permit fee of any permit holder that would apply to a 74212
hazardous waste management unit for which a permit has been 74213
issued, but for which construction has not yet commenced. Once 74214
construction has commenced, the director shall require the payment 74215
of a part of the appropriate fee indicated by the schedule that 74216
bears the same relationship to the total fee that the number of 74217
days remaining until the next anniversary date at which payment of 74218
the annual permit fee is due bears to three hundred sixty-five. 74219

The director, by rules adopted in accordance with Chapters 74220
119. and 3745. of the Revised Code, shall prescribe procedures for 74221
collecting the annual permit fee established by this division and 74222
may prescribe other requirements necessary to carry out this 74223
division. 74224

(3) The prohibition against establishing or operating a 74225
hazardous waste facility without a hazardous waste facility 74226
installation and operation permit does not apply to either of the 74227
following: 74228

(a) A facility that is operating in accordance with a permit 74229
renewal issued under division (H) of section 3734.05 of the 74230
Revised Code, a revision issued under division (I) of that section 74231
as it existed prior to August 20, 1996, or a modification issued 74232
by the director under division (I) of that section on and after 74233
August 20, 1996; 74234

(b) Except as provided in division (J) of section 3734.05 of 74235
the Revised Code, a facility that will operate or is operating in 74236
accordance with a permit by rule, or that is not subject to permit 74237
requirements, under rules adopted by the director. In accordance 74238
with Chapter 119. of the Revised Code, the director shall adopt, 74239

and subsequently may amend, suspend, or rescind, rules for the 74240
purposes of division (E)(3)(b) of this section. Any rules so 74241
adopted shall be consistent with and equivalent to regulations 74242
pertaining to interim status adopted under the "Resource 74243
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 74244
6921, as amended, except as otherwise provided in this chapter. 74245

If a modification is requested or proposed for a facility 74246
described in division (E)(3)(a) or (b) of this section, division 74247
(I)(7) of section 3734.05 of the Revised Code applies. 74248

(F) No person shall store, treat, or dispose of hazardous 74249
waste identified or listed under this chapter and rules adopted 74250
under it, regardless of whether generated on or off the premises 74251
where the waste is stored, treated, or disposed of, or transport 74252
or cause to be transported any hazardous waste identified or 74253
listed under this chapter and rules adopted under it to any other 74254
premises, except at or to any of the following: 74255

(1) A hazardous waste facility operating under a permit 74256
issued in accordance with this chapter; 74257

(2) A facility in another state operating under a license or 74258
permit issued in accordance with the "Resource Conservation and 74259
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 74260
amended; 74261

(3) A facility in another nation operating in accordance with 74262
the laws of that nation; 74263

(4) A facility holding a permit issued pursuant to Title I of 74264
the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 74265
Stat. 1052, 33 U.S.C.A. 1401, as amended; 74266

(5) A hazardous waste facility as described in division 74267
(E)(3)(a) or (b) of this section. 74268

(G) The director, by order, may exempt any person generating, 74269

collecting, storing, treating, disposing of, or transporting solid 74270
wastes, infectious wastes, or hazardous waste, or processing solid 74271
wastes that consist of scrap tires, in such quantities or under 74272
such circumstances that, in the determination of the director, are 74273
unlikely to adversely affect the public health or safety or the 74274
environment from any requirement to obtain a registration 74275
certificate, permit, or license or comply with the manifest system 74276
or other requirements of this chapter. Such an exemption shall be 74277
consistent with and equivalent to any regulations adopted by the 74278
administrator of the United States environmental protection agency 74279
under the "Resource Conservation and Recovery Act of 1976," 90 74280
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 74281
provided in this chapter. 74282

(H) No person shall engage in filling, grading, excavating, 74283
building, drilling, or mining on land where a hazardous waste 74284
facility, or a solid waste facility, was operated without prior 74285
authorization from the director, who shall establish the procedure 74286
for granting such authorization by rules adopted in accordance 74287
with Chapter 119. of the Revised Code. 74288

A public utility that has main or distribution lines above or 74289
below the land surface located on an easement or right-of-way 74290
across land where a solid waste facility was operated may engage 74291
in any such activity within the easement or right-of-way without 74292
prior authorization from the director for purposes of performing 74293
emergency repair or emergency replacement of its lines; of the 74294
poles, towers, foundations, or other structures supporting or 74295
sustaining any such lines; or of the appurtenances to those 74296
structures, necessary to restore or maintain existing public 74297
utility service. A public utility may enter upon any such easement 74298
or right-of-way without prior authorization from the director for 74299
purposes of performing necessary or routine maintenance of those 74300
portions of its existing lines; of the existing poles, towers, 74301

foundations, or other structures sustaining or supporting its 74302
lines; or of the appurtenances to any such supporting or 74303
sustaining structure, located on or above the land surface on any 74304
such easement or right-of-way. Within twenty-four hours after 74305
commencing any such emergency repair, replacement, or maintenance 74306
work, the public utility shall notify the director or the 74307
director's authorized representative of those activities and shall 74308
provide such information regarding those activities as the 74309
director or the director's representative may request. Upon 74310
completion of the emergency repair, replacement, or maintenance 74311
activities, the public utility shall restore any land of the solid 74312
waste facility disturbed by those activities to the condition 74313
existing prior to the commencement of those activities. 74314

(I) No owner or operator of a hazardous waste facility, in 74315
the operation of the facility, shall cause, permit, or allow the 74316
emission therefrom of any particulate matter, dust, fumes, gas, 74317
mist, smoke, vapor, or odorous substance that, in the opinion of 74318
the director, unreasonably interferes with the comfortable 74319
enjoyment of life or property by persons living or working in the 74320
vicinity of the facility, or that is injurious to public health. 74321
Any such action is hereby declared to be a public nuisance. 74322

(J) Notwithstanding any other provision of this chapter, in 74323
the event the director finds an imminent and substantial danger to 74324
public health or safety or the environment that creates an 74325
emergency situation requiring the immediate treatment, storage, or 74326
disposal of hazardous waste, the director may issue a temporary 74327
emergency permit to allow the treatment, storage, or disposal of 74328
the hazardous waste at a facility that is not otherwise authorized 74329
by a hazardous waste facility installation and operation permit to 74330
treat, store, or dispose of the waste. The emergency permit shall 74331
not exceed ninety days in duration and shall not be renewed. The 74332
director shall adopt, and may amend, suspend, or rescind, rules in 74333

accordance with Chapter 119. of the Revised Code governing the 74334
issuance, modification, revocation, and denial of emergency 74335
permits. 74336

(K) No owner or operator of a sanitary landfill shall 74337
knowingly accept for disposal, or dispose of, any infectious 74338
wastes, other than those subject to division (A)(1)(c) of section 74339
3734.021 of the Revised Code, that have not been treated to render 74340
them noninfectious. For the purposes of this division, 74341
certification by the owner or operator of the treatment facility 74342
where the wastes were treated on the shipping paper required by 74343
rules adopted under division (D)(2) of that section creates a 74344
rebuttable presumption that the wastes have been so treated. 74345

(L) The director, in accordance with Chapter 119. of the 74346
Revised Code, shall adopt, and may amend, suspend, or rescind, 74347
rules having uniform application throughout the state establishing 74348
a training and certification program that shall be required for 74349
employees of boards of health who are responsible for enforcing 74350
the solid waste and infectious waste provisions of this chapter 74351
and rules adopted under them and for persons who are responsible 74352
for the operation of solid waste facilities or infectious waste 74353
treatment facilities. The rules shall provide all of the 74354
following, without limitation: 74355

(1) The program shall be administered by the director and 74356
shall consist of a course on new solid waste and infectious waste 74357
technologies, enforcement procedures, and rules; 74358

(2) The course shall be offered on an annual basis; 74359

(3) Those persons who are required to take the course under 74360
division (L) of this section shall do so triennially; 74361

(4) Persons who successfully complete the course shall be 74362
certified by the director; 74363

(5) Certification shall be required for all employees of 74364

boards of health who are responsible for enforcing the solid waste 74365
or infectious waste provisions of this chapter and rules adopted 74366
under them and for all persons who are responsible for the 74367
operation of solid waste facilities or infectious waste treatment 74368
facilities; 74369

(6)(a) All employees of a board of health who, on the 74370
effective date of the rules adopted under this division, are 74371
responsible for enforcing the solid waste or infectious waste 74372
provisions of this chapter and the rules adopted under them shall 74373
complete the course and be certified by the director not later 74374
than January 1, 1995; 74375

(b) All employees of a board of health who, after the 74376
effective date of the rules adopted under division (L) of this 74377
section, become responsible for enforcing the solid waste or 74378
infectious waste provisions of this chapter and rules adopted 74379
under them and who do not hold a current and valid certification 74380
from the director at that time shall complete the course and be 74381
certified by the director within two years after becoming 74382
responsible for performing those activities. 74383

No person shall fail to obtain the certification required 74384
under this division. 74385

(M) The director shall not issue a permit under section 74386
3734.05 of the Revised Code to establish a solid waste facility, 74387
or to modify a solid waste facility operating on December 21, 74388
1988, in a manner that expands the disposal capacity or geographic 74389
area covered by the facility, that is or is to be located within 74390
the boundaries of a state park established or dedicated under 74391
Chapter 1541. of the Revised Code, a state park purchase area 74392
established under section 1541.02 of the Revised Code, any unit of 74393
the national park system, or any property that lies within the 74394
boundaries of a national park or recreation area, but that has not 74395
been acquired or is not administered by the secretary of the 74396

United States department of the interior, located in this state, 74397
or any candidate area located in this state and identified for 74398
potential inclusion in the national park system in the edition of 74399
the "national park system plan" submitted under paragraph (b) of 74400
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 74401
U.S.C.A. 1a-5, as amended, current at the time of filing of the 74402
application for the permit, unless the facility or proposed 74403
facility is or is to be used exclusively for the disposal of solid 74404
wastes generated within the park or recreation area and the 74405
director determines that the facility or proposed facility will 74406
not degrade any of the natural or cultural resources of the park 74407
or recreation area. The director shall not issue a variance under 74408
division (A) of this section and rules adopted under it, or issue 74409
an exemption order under division (G) of this section, that would 74410
authorize any such establishment or expansion of a solid waste 74411
facility within the boundaries of any such park or recreation 74412
area, state park purchase area, or candidate area, other than a 74413
solid waste facility exclusively for the disposal of solid wastes 74414
generated within the park or recreation area when the director 74415
determines that the facility will not degrade any of the natural 74416
or cultural resources of the park or recreation area. 74417

(N)(1) The rules adopted under division (A) of this section, 74418
other than those governing variances, do not apply to scrap tire 74419
collection, storage, monocell, monofill, and recovery facilities. 74420
Those facilities are subject to and governed by rules adopted 74421
under sections 3734.70 to 3734.73 of the Revised Code, as 74422
applicable. 74423

(2) Division (C) of this section does not apply to scrap tire 74424
collection, storage, monocell, monofill, and recovery facilities. 74425
The establishment and modification of those facilities are subject 74426
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 74427
Code, as applicable. 74428

(3) The director may adopt, amend, suspend, or rescind rules 74429
under division (A) of this section creating an alternative system 74430
for authorizing the establishment, operation, or modification of a 74431
solid waste compost facility in lieu of the requirement that a 74432
person seeking to establish, operate, or modify a solid waste 74433
compost facility apply for and receive a permit under division (C) 74434
of this section and section 3734.05 of the Revised Code and a 74435
license under division (A)(1) of that section. The rules may 74436
include requirements governing, without limitation, the 74437
classification of solid waste compost facilities, the submittal of 74438
operating records for solid waste compost facilities, and the 74439
creation of a registration or notification system in lieu of the 74440
issuance of permits and licenses for solid waste compost 74441
facilities. The rules shall specify the applicability of divisions 74442
(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised 74443
Code to a solid waste compost facility. 74444

Sec. 3734.05. (A)(1) Except as provided in divisions (A)(4), 74445
(8), and (9) of this section, no person shall operate or maintain 74446
a solid waste facility without a license issued under this 74447
division by the board of health of the health district in which 74448
the facility is located or by the director of environmental 74449
protection when the health district in which the facility is 74450
located is not on the approved list under section 3734.08 of the 74451
Revised Code. 74452

During the month of December, but before the first day of 74453
January of the next year, every person proposing to continue to 74454
operate an existing solid waste facility shall procure a license 74455
under this division to operate the facility for that year from the 74456
board of health of the health district in which the facility is 74457
located or, if the health district is not on the approved list 74458
under section 3734.08 of the Revised Code, from the director. The 74459
application for such a license shall be submitted to the board of 74460

health or to the director, as appropriate, on or before the last 74461
day of September of the year preceding that for which the license 74462
is sought. In addition to the application fee prescribed in 74463
division (A)(2) of this section, a person who submits an 74464
application after that date shall pay an additional ten per cent 74465
of the amount of the application fee for each week that the 74466
application is late. Late payment fees accompanying an application 74467
submitted to the board of health shall be credited to the special 74468
fund of the health district created in division (B) of section 74469
3734.06 of the Revised Code, and late payment fees accompanying an 74470
application submitted to the director shall be credited to the 74471
general revenue fund. A person who has received a license, upon 74472
sale or disposition of a solid waste facility, and upon consent of 74473
the board of health and the director, may have the license 74474
transferred to another person. The board of health or the director 74475
may include such terms and conditions in a license or revision to 74476
a license as are appropriate to ensure compliance with this 74477
chapter and rules adopted under it. The terms and conditions may 74478
establish the authorized maximum daily waste receipts for the 74479
facility. Limitations on maximum daily waste receipts shall be 74480
specified in cubic yards of volume for the purpose of regulating 74481
the design, construction, and operation of solid waste facilities. 74482
Terms and conditions included in a license or revision to a 74483
license by a board of health shall be consistent with, and pertain 74484
only to the subjects addressed in, the rules adopted under 74485
division (A) of section 3734.02 and division (D) of section 74486
3734.12 of the Revised Code. 74487

(2)(a) Except as provided in divisions (A)(2)(b), (8), and 74488
(9) of this section, each person proposing to open a new solid 74489
waste facility or to modify an existing solid waste facility shall 74490
submit an application for a permit with accompanying detail plans 74491
and specifications to the environmental protection agency for 74492
required approval under the rules adopted by the director pursuant 74493

to division (A) of section 3734.02 of the Revised Code and 74494
applicable rules adopted under division (D) of section 3734.12 of 74495
the Revised Code at least two hundred seventy days before proposed 74496
operation of the facility and shall concurrently make application 74497
for the issuance of a license under division (A)(1) of this 74498
section with the board of health of the health district in which 74499
the proposed facility is to be located. 74500

(b) On and after the effective date of the rules adopted 74501
under division (A) of section 3734.02 of the Revised Code and 74502
division (D) of section 3734.12 of the Revised Code governing 74503
solid waste transfer facilities, each person proposing to open a 74504
new solid waste transfer facility or to modify an existing solid 74505
waste transfer facility shall submit an application for a permit 74506
with accompanying engineering detail plans, specifications, and 74507
information regarding the facility and its method of operation to 74508
the environmental protection agency for required approval under 74509
those rules at least two hundred seventy days before commencing 74510
proposed operation of the facility and concurrently shall make 74511
application for the issuance of a license under division (A)(1) of 74512
this section with the board of health of the health district in 74513
which the facility is located or proposed. 74514

(c) Each application for a permit under division (A)(2)(a) or 74515
(b) of this section shall be accompanied by a nonrefundable 74516
application fee of four hundred dollars that shall be credited to 74517
the general revenue fund. Each application for an annual license 74518
under division (A)(1) or (2) of this section shall be accompanied 74519
by a nonrefundable application fee of one hundred dollars. If the 74520
application for an annual license is submitted to a board of 74521
health on the approved list under section 3734.08 of the Revised 74522
Code, the application fee shall be credited to the special fund of 74523
the health district created in division (B) of section 3734.06 of 74524
the Revised Code. If the application for an annual license is 74525

submitted to the director, the application fee shall be credited 74526
to the general revenue fund. If a permit or license is issued, the 74527
amount of the application fee paid shall be deducted from the 74528
amount of the permit fee due under division (Q) of section 3745.11 74529
of the Revised Code or the amount of the license fee due under 74530
division (A)(1), (2), (3), ~~or (4)~~, or (5) of section 3734.06 of 74531
the Revised Code. 74532

(d) As used in divisions (A)(2)(d), (e), and (f) of this 74533
section, "modify" means any of the following: 74534

(i) Any increase of more than ten per cent in the total 74535
capacity of a solid waste facility; 74536

(ii) Any expansion of the limits of solid waste placement at 74537
a solid waste facility; 74538

(iii) Any increase in the depth of excavation at a solid 74539
waste facility; 74540

(iv) Any change in the technique of waste receipt or type of 74541
waste received at a solid waste facility that may endanger human 74542
health, as determined by the director by rules adopted in 74543
accordance with Chapter 119. of the Revised Code. 74544

Not later than ~~thirty-five~~ forty-five days after submitting 74545
an application under division (A)(2)(a) or (b) of this section for 74546
a permit to open a new or modify an existing solid waste facility, 74547
the applicant, in conjunction with an officer or employee of the 74548
environmental protection agency, shall hold a public meeting on 74549
the application within the county in which the new or modified 74550
solid waste facility is or is proposed to be located or within a 74551
contiguous county. Not less than thirty days before holding the 74552
public meeting on the application, the applicant shall publish 74553
notice of the meeting in each newspaper of general circulation 74554
that is published in the county in which the facility is or is 74555
proposed to be located. If no newspaper of general circulation is 74556

published in the county, the applicant shall publish the notice in 74557
a newspaper of general circulation in the county. The notice shall 74558
contain the date, time, and location of the public meeting and a 74559
general description of the proposed new or modified facility. Not 74560
later than five days after publishing the notice, the applicant 74561
shall send by certified mail a copy of the notice and the date the 74562
notice was published to the director and the legislative authority 74563
of each municipal corporation, township, and county, and to the 74564
chief executive officer of each municipal corporation, in which 74565
the facility is or is proposed to be located. At the public 74566
meeting, the applicant shall provide information and describe the 74567
application and respond to comments or questions concerning the 74568
application, and the officer or employee of the agency shall 74569
describe the permit application process. At the public meeting, 74570
any person may submit written or oral comments on or objections to 74571
the application. Not more than thirty days after the public 74572
meeting, the applicant shall provide the director with a copy of a 74573
transcript of the full meeting, copies of any exhibits, displays, 74574
or other materials presented by the applicant at the meeting, and 74575
the original copy of any written comments submitted at the 74576
meeting. 74577

(e) Except as provided in division (A)(2)(f) of this section, 74578
prior to taking an action, other than a proposed or final denial, 74579
upon an application submitted under division (A)(2)(a) of this 74580
section for a permit to open a new or modify an existing solid 74581
waste facility, the director shall hold a public information 74582
session and a public hearing on the application within the county 74583
in which the new or modified solid waste facility is or is 74584
proposed to be located or within a contiguous county. If the 74585
application is for a permit to open a new solid waste facility, 74586
the director shall hold the hearing not less than fourteen days 74587
after the information session. If the application is for a permit 74588
to modify an existing solid waste facility, the director may hold 74589

both the information session and the hearing on the same day 74590
unless any individual affected by the application requests in 74591
writing that the information session and the hearing not be held 74592
on the same day, in which case the director shall hold the hearing 74593
not less than fourteen days after the information session. The 74594
director shall publish notice of the public information session or 74595
public hearing not less than thirty days before holding the 74596
information session or hearing, as applicable. The notice shall be 74597
published in each newspaper of general circulation that is 74598
published in the county in which the facility is or is proposed to 74599
be located. If no newspaper of general circulation is published in 74600
the county, the director shall publish the notice in a newspaper 74601
of general circulation in the county. The notice shall contain the 74602
date, time, and location of the information session or hearing, as 74603
applicable, and a general description of the proposed new or 74604
modified facility. At the public information session, an officer 74605
or employee of the environmental protection agency shall describe 74606
the status of the permit application and be available to respond 74607
to comments or questions concerning the application. At the public 74608
hearing, any person may submit written or oral comments on or 74609
objections to the approval of the application. The applicant, or a 74610
representative of the applicant who has knowledge of the location, 74611
construction, and operation of the facility, shall attend the 74612
information session and public hearing to respond to comments or 74613
questions concerning the facility directed to the applicant or 74614
representative by the officer or employee of the environmental 74615
protection agency presiding at the information session and 74616
hearing. 74617

(f) The solid waste management policy committee of a county 74618
or joint solid waste management district may adopt a resolution 74619
requesting expeditious consideration of a specific application 74620
submitted under division (A)(2)(a) of this section for a permit to 74621
modify an existing solid waste facility within the district. The 74622

resolution shall make the finding that expedited consideration of 74623
the application without the public information session and public 74624
hearing under division (A)(2)(e) of this section is in the public 74625
interest and will not endanger human health, as determined by the 74626
director by rules adopted in accordance with Chapter 119. of the 74627
Revised Code. Upon receiving such a resolution, the director, at 74628
the director's discretion, may issue a final action upon the 74629
application without holding a public information session or public 74630
hearing pursuant to division (A)(2)(e) of this section. 74631

(3) Except as provided in division (A)(10) of this section, 74632
and unless the owner or operator of any solid waste facility, 74633
other than a solid waste transfer facility or a compost facility 74634
that accepts exclusively source separated yard wastes, that 74635
commenced operation on or before July 1, 1968, has obtained an 74636
exemption from the requirements of division (A)(3) of this section 74637
in accordance with division (G) of section 3734.02 of the Revised 74638
Code, the owner or operator shall submit to the director an 74639
application for a permit with accompanying engineering detail 74640
plans, specifications, and information regarding the facility and 74641
its method of operation for approval under rules adopted under 74642
division (A) of section 3734.02 of the Revised Code and applicable 74643
rules adopted under division (D) of section 3734.12 of the Revised 74644
Code in accordance with the following schedule: 74645

(a) Not later than September 24, 1988, if the facility is 74646
located in the city of Garfield Heights or Parma in Cuyahoga 74647
county; 74648

(b) Not later than December 24, 1988, if the facility is 74649
located in Delaware, Greene, Guernsey, Hamilton, Madison, 74650
Mahoning, Ottawa, or Vinton county; 74651

(c) Not later than March 24, 1989, if the facility is located 74652
in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or 74653
Washington county, or is located in the city of Brooklyn or 74654

Cuyahoga Heights in Cuyahoga county; 74655

(d) Not later than June 24, 1989, if the facility is located 74656
in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or 74657
Summit county or is located in Cuyahoga county outside the cities 74658
of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights; 74659

(e) Not later than September 24, 1989, if the facility is 74660
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 74661
county; 74662

(f) Not later than December 24, 1989, if the facility is 74663
located in a county not listed in divisions (A)(3)(a) to (e) of 74664
this section; 74665

(g) Notwithstanding divisions (A)(3)(a) to (f) of this 74666
section, not later than December 31, 1990, if the facility is a 74667
solid waste facility owned by a generator of solid wastes when the 74668
solid waste facility exclusively disposes of solid wastes 74669
generated at one or more premises owned by the generator 74670
regardless of whether the facility is located on a premises where 74671
the wastes are generated and if the facility disposes of more than 74672
one hundred thousand tons of solid wastes per year, provided that 74673
any such facility shall be subject to division (A)(5) of this 74674
section. 74675

(4) Except as provided in divisions (A)(8), (9), and (10) of 74676
this section, unless the owner or operator of any solid waste 74677
facility for which a permit was issued after July 1, 1968, but 74678
before January 1, 1980, has obtained an exemption from the 74679
requirements of division (A)(4) of this section under division (G) 74680
of section 3734.02 of the Revised Code, the owner or operator 74681
shall submit to the director an application for a permit with 74682
accompanying engineering detail plans, specifications, and 74683
information regarding the facility and its method of operation for 74684
approval under those rules. 74685

(5) The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of a solid waste facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(6) The director shall act upon an application submitted under division (A)(3) or (4) of this section and any updated engineering plans, specifications, and information submitted under division (A)(5) of this section within one hundred eighty days after receiving them. If the director denies any such permit application, the order denying the application or disapproving the plans shall include the requirements that the owner or operator submit a plan for closure and post-closure care of the facility to the director for approval within six months after issuance of the order, cease accepting solid wastes for disposal or transfer at the facility, and commence closure of the facility not later than one year after issuance of the order. If the director determines that closure of the facility within that one-year period would result in the unavailability of sufficient solid waste management facility capacity within the county or joint solid waste management district in which the facility is located to dispose of or transfer the solid waste generated within the district, the director in the order of denial or disapproval may postpone

commencement of closure of the facility for such period of time as 74719
the director finds necessary for the board of county commissioners 74720
or directors of the district to secure access to or for there to 74721
be constructed within the district sufficient solid waste 74722
management facility capacity to meet the needs of the district, 74723
provided that the director shall certify in the director's order 74724
that postponing the date for commencement of closure will not 74725
endanger ground water or any property surrounding the facility, 74726
allow methane gas migration to occur, or cause or contribute to 74727
any other type of environmental damage. 74728

If an emergency need for disposal capacity that may affect 74729
public health and safety exists as a result of closure of a 74730
facility under division (A)(6) of this section, the director may 74731
issue an order designating another solid waste facility to accept 74732
the wastes that would have been disposed of at the facility to be 74733
closed. 74734

(7) If the director determines that standards more stringent 74735
than those applicable in rules adopted under division (A) of 74736
section 3734.02 of the Revised Code and division (D) of section 74737
3734.12 of the Revised Code, or standards pertaining to subjects 74738
not specifically addressed by those rules, are necessary to ensure 74739
that a solid waste facility constructed at the proposed location 74740
will not cause a nuisance, cause or contribute to water pollution, 74741
or endanger public health or safety, the director may issue a 74742
permit for the facility with such terms and conditions as the 74743
director finds necessary to protect public health and safety and 74744
the environment. If a permit is issued, the director shall state 74745
in the order issuing it the specific findings supporting each such 74746
term or condition. 74747

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do 74748
not apply to a solid waste compost facility that accepts 74749
exclusively source separated yard wastes and that is registered 74750

under division (C) of section 3734.02 of the Revised Code or, 74751
unless otherwise provided in rules adopted under division (N)(3) 74752
of section 3734.02 of the Revised Code, to a solid waste compost 74753
facility if the director has adopted rules establishing an 74754
alternative system for authorizing the establishment, operation, 74755
or modification of a solid waste compost facility under that 74756
division. 74757

(9) Divisions (A)(1) to (7) of this section do not apply to 74758
scrap tire collection, storage, monocell, monofill, and recovery 74759
facilities. The approval of plans and specifications, as 74760
applicable, and the issuance of registration certificates, 74761
permits, and licenses for those facilities are subject to sections 74762
3734.75 to 3734.78 of the Revised Code, as applicable, and section 74763
3734.81 of the Revised Code. 74764

(10) Divisions (A)(3) and (4) of this section do not apply to 74765
a solid waste incinerator that was placed into operation on or 74766
before October 12, 1994, and that is not authorized to accept and 74767
treat infectious wastes pursuant to division (B) of this section. 74768

(B)(1) Each person who is engaged in the business of treating 74769
infectious wastes for profit at a treatment facility located off 74770
the premises where the wastes are generated that is in operation 74771
on August 10, 1988, and who proposes to continue operating the 74772
facility shall submit to the board of health of the health 74773
district in which the facility is located an application for a 74774
license to operate the facility. 74775

Thereafter, no person shall operate or maintain an infectious 74776
waste treatment facility without a license issued by the board of 74777
health of the health district in which the facility is located or 74778
by the director when the health district in which the facility is 74779
located is not on the approved list under section 3734.08 of the 74780
Revised Code. 74781

(2)(a) During the month of December, but before the first day 74782
of January of the next year, every person proposing to continue to 74783
operate an existing infectious waste treatment facility shall 74784
procure a license to operate the facility for that year from the 74785
board of health of the health district in which the facility is 74786
located or, if the health district is not on the approved list 74787
under section 3734.08 of the Revised Code, from the director. The 74788
application for such a license shall be submitted to the board of 74789
health or to the director, as appropriate, on or before the last 74790
day of September of the year preceding that for which the license 74791
is sought. In addition to the application fee prescribed in 74792
division (B)(2)(c) of this section, a person who submits an 74793
application after that date shall pay an additional ten per cent 74794
of the amount of the application fee for each week that the 74795
application is late. Late payment fees accompanying an application 74796
submitted to the board of health shall be credited to the special 74797
infectious waste fund of the health district created in division 74798
(C) of section 3734.06 of the Revised Code, and late payment fees 74799
accompanying an application submitted to the director shall be 74800
credited to the general revenue fund. A person who has received a 74801
license, upon sale or disposition of an infectious waste treatment 74802
facility and upon consent of the board of health and the director, 74803
may have the license transferred to another person. The board of 74804
health or the director may include such terms and conditions in a 74805
license or revision to a license as are appropriate to ensure 74806
compliance with the infectious waste provisions of this chapter 74807
and rules adopted under them. 74808

(b) Each person proposing to open a new infectious waste 74809
treatment facility or to modify an existing infectious waste 74810
treatment facility shall submit an application for a permit with 74811
accompanying detail plans and specifications to the environmental 74812
protection agency for required approval under the rules adopted by 74813
the director pursuant to section 3734.021 of the Revised Code two 74814

hundred seventy days before proposed operation of the facility and 74815
concurrently shall make application for a license with the board 74816
of health of the health district in which the facility is or is 74817
proposed to be located. Not later than ninety days after receiving 74818
a completed application under division (B)(2)(b) of this section 74819
for a permit to open a new infectious waste treatment facility or 74820
modify an existing infectious waste treatment facility to expand 74821
its treatment capacity, or receiving a completed application under 74822
division (A)(2)(a) of this section for a permit to open a new 74823
solid waste incineration facility, or modify an existing solid 74824
waste incineration facility to also treat infectious wastes or to 74825
increase its infectious waste treatment capacity, that pertains to 74826
a facility for which a notation authorizing infectious waste 74827
treatment is included or proposed to be included in the solid 74828
waste incineration facility's license pursuant to division (B)(3) 74829
of this section, the director shall hold a public hearing on the 74830
application within the county in which the new or modified 74831
infectious waste or solid waste facility is or is proposed to be 74832
located or within a contiguous county. Not less than thirty days 74833
before holding the public hearing on the application, the director 74834
shall publish notice of the hearing in each newspaper that has 74835
general circulation and that is published in the county in which 74836
the facility is or is proposed to be located. If there is no 74837
newspaper that has general circulation and that is published in 74838
the county, the director shall publish the notice in a newspaper 74839
of general circulation in the county. The notice shall contain the 74840
date, time, and location of the public hearing and a general 74841
description of the proposed new or modified facility. At the 74842
public hearing, any person may submit written or oral comments on 74843
or objections to the approval or disapproval of the application. 74844
The applicant, or a representative of the applicant who has 74845
knowledge of the location, construction, and operation of the 74846
facility, shall attend the public hearing to respond to comments 74847

or questions concerning the facility directed to the applicant or 74848
representative by the officer or employee of the environmental 74849
protection agency presiding at the hearing. 74850

(c) Each application for a permit under division (B)(2)(b) of 74851
this section shall be accompanied by a nonrefundable application 74852
fee of four hundred dollars that shall be credited to the general 74853
revenue fund. Each application for an annual license under 74854
division (B)(2)(a) of this section shall be accompanied by a 74855
nonrefundable application fee of one hundred dollars. If the 74856
application for an annual license is submitted to a board of 74857
health on the approved list under section 3734.08 of the Revised 74858
Code, the application fee shall be credited to the special 74859
infectious waste fund of the health district created in division 74860
(C) of section 3734.06 of the Revised Code. If the application for 74861
an annual license is submitted to the director, the application 74862
fee shall be credited to the general revenue fund. If a permit or 74863
license is issued, the amount of the application fee paid shall be 74864
deducted from the amount of the permit fee due under division (Q) 74865
of section 3745.11 of the Revised Code or the amount of the 74866
license fee due under division (C) of section 3734.06 of the 74867
Revised Code. 74868

(d) The owner or operator of any infectious waste treatment 74869
facility that commenced operation on or before July 1, 1968, shall 74870
submit to the director an application for a permit with 74871
accompanying engineering detail plans, specifications, and 74872
information regarding the facility and its method of operation for 74873
approval under rules adopted under section 3734.021 of the Revised 74874
Code in accordance with the following schedule: 74875

(i) Not later than December 24, 1988, if the facility is 74876
located in Delaware, Greene, Guernsey, Hamilton, Madison, 74877
Mahoning, Ottawa, or Vinton county; 74878

(ii) Not later than March 24, 1989, if the facility is 74879

located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, 74880
or Washington county, or is located in the city of Brooklyn, 74881
Cuyahoga Heights, or Parma in Cuyahoga county; 74882

(iii) Not later than June 24, 1989, if the facility is 74883
located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, 74884
Lucas, or Summit county or is located in Cuyahoga county outside 74885
the cities of Brooklyn, Cuyahoga Heights, and Parma; 74886

(iv) Not later than September 24, 1989, if the facility is 74887
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 74888
county; 74889

(v) Not later than December 24, 1989, if the facility is 74890
located in a county not listed in divisions (B)(2)(d)(i) to (iv) 74891
of this section. 74892

The owner or operator of an infectious waste treatment 74893
facility required to submit a permit application under division 74894
(B)(2)(d) of this section is not required to pay any permit 74895
application fee under division (B)(2)(c) of this section, or 74896
permit fee under division (Q) of section 3745.11 of the Revised 74897
Code, with respect thereto unless the owner or operator also 74898
proposes to modify the facility. 74899

(e) The director may issue an order in accordance with 74900
Chapter 3745. of the Revised Code to the owner or operator of an 74901
infectious waste treatment facility requiring the person to submit 74902
to the director updated engineering detail plans, specifications, 74903
and information regarding the facility and its method of operation 74904
for approval under rules adopted under section 3734.021 of the 74905
Revised Code if, in the director's judgment, conditions at the 74906
facility constitute a substantial threat to public health or 74907
safety or are causing or contributing to or threatening to cause 74908
or contribute to air or water pollution or soil contamination. Any 74909
person who receives such an order shall submit the updated 74910

engineering detail plans, specifications, and information to the 74911
director within one hundred eighty days after the effective date 74912
of the order. 74913

(f) The director shall act upon an application submitted 74914
under division (B)(2)(d) of this section and any updated 74915
engineering plans, specifications, and information submitted under 74916
division (B)(2)(e) of this section within one hundred eighty days 74917
after receiving them. If the director denies any such permit 74918
application or disapproves any such updated engineering plans, 74919
specifications, and information, the director shall include in the 74920
order denying the application or disapproving the plans the 74921
requirement that the owner or operator cease accepting infectious 74922
wastes for treatment at the facility. 74923

(3) Division (B) of this section does not apply to an 74924
infectious waste treatment facility that meets any of the 74925
following conditions: 74926

(a) Is owned or operated by the generator of the wastes and 74927
exclusively treats, by methods, techniques, and practices 74928
established by rules adopted under division (C)(1) or (3) of 74929
section 3734.021 of the Revised Code, wastes that are generated at 74930
any premises owned or operated by that generator regardless of 74931
whether the wastes are generated on the same premises where the 74932
generator's treatment facility is located or, if the generator is 74933
a hospital as defined in section 3727.01 of the Revised Code, 74934
infectious wastes that are described in division (A)(1)(g), (h), 74935
or (i) of section 3734.021 of the Revised Code; 74936

(b) Holds a license or renewal of a license to operate a 74937
crematory facility issued under Chapter 4717. and a permit issued 74938
under Chapter 3704. of the Revised Code; 74939

(c) Treats or disposes of dead animals or parts thereof, or 74940
the blood of animals, and is subject to any of the following: 74941

(i) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 74942
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(ii) Chapter 918. of the Revised Code; 74944

(iii) Chapter 953. of the Revised Code. 74945

Nothing in division (B) of this section requires a facility that holds a license issued under division (A) of this section as a solid waste facility and that also treats infectious wastes by the same method, technique, or process to obtain a license under division (B) of this section as an infectious waste treatment facility. However, the solid waste facility license for the facility shall include the notation that the facility also treats infectious wastes. 74946
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On and after the effective date of the amendments to the rules adopted under division (C)(2) of section 3734.021 of the Revised Code that are required by Section 6 of Substitute House Bill No. 98 of the 120th General Assembly, the director shall not issue a permit to open a new solid waste incineration facility unless the proposed facility complies with the requirements for the location of new infectious waste incineration facilities established in the required amendments to those rules. 74954
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(C) Except for a facility or activity described in division (E)(3) of section 3734.02 of the Revised Code, a person who proposes to establish or operate a hazardous waste facility shall submit a complete application for a hazardous waste facility installation and operation permit and accompanying detail plans, specifications, and such information as the director may require to the environmental protection agency at least one hundred eighty days before the proposed beginning of operation of the facility. The applicant shall notify by certified mail the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located of the submission of 74962
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the application within ten days after the submission or at such 74973
earlier time as the director may establish by rule. If the 74974
application is for a proposed new hazardous waste disposal or 74975
thermal treatment facility, the applicant also shall give actual 74976
notice of the general design and purpose of the facility to the 74977
legislative authority of each municipal corporation, township, and 74978
county in which the facility is proposed to be located at least 74979
ninety days before the permit application is submitted to the 74980
environmental protection agency. 74981

In accordance with rules adopted under section 3734.12 of the 74982
Revised Code, prior to the submission of a complete application 74983
for a hazardous waste facility installation and operation permit, 74984
the applicant shall hold at least one meeting in the township or 74985
municipal corporation in which the facility is proposed to be 74986
located, whichever is geographically closer to the proposed 74987
location of the facility. The meeting shall be open to the public 74988
and shall be held to inform the community of the proposed 74989
hazardous waste management activities and to solicit questions 74990
from the community concerning the activities. 74991

(D)(1) Except as provided in section 3734.123 of the Revised 74992
Code, upon receipt of a complete application for a hazardous waste 74993
facility installation and operation permit under division (C) of 74994
this section, the director shall consider the application and 74995
accompanying information to determine whether the application 74996
complies with agency rules and the requirements of division (D)(2) 74997
of this section. After making a determination, the director shall 74998
issue either a draft permit or a notice of intent to deny the 74999
permit. The director, in accordance with rules adopted under 75000
section 3734.12 of the Revised Code or with rules adopted to 75001
implement Chapter 3745. of the Revised Code, shall provide public 75002
notice of the application and the draft permit or the notice of 75003
intent to deny the permit, provide an opportunity for public 75004

comments, and, if significant interest is shown, schedule a public meeting in the county in which the facility is proposed to be located and give public notice of the date, time, and location of the public meeting in a newspaper of general circulation in that county.

(2) The director shall not approve an application for a hazardous waste facility installation and operation permit or an application for a modification under division (I)(3) of this section unless the director finds and determines as follows:

(a) The nature and volume of the waste to be treated, stored, or disposed of at the facility;

(b) That the facility complies with the director's hazardous waste standards adopted pursuant to section 3734.12 of the Revised Code;

(c) That the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of various alternatives, and other pertinent considerations;

(d) That the facility represents the minimum risk of all of the following:

(i) Fires or explosions from treatment, storage, or disposal methods;

(ii) Release of hazardous waste during transportation of hazardous waste to or from the facility;

(iii) Adverse impact on the public health and safety.

(e) That the facility will comply with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them;

(f) That if the owner of the facility, the operator of the facility, or any other person in a position with the facility from

which the person may influence the installation and operation of 75035
the facility has been involved in any prior activity involving 75036
transportation, treatment, storage, or disposal of hazardous 75037
waste, that person has a history of compliance with this chapter 75038
and Chapters 3704. and 6111. of the Revised Code and all rules and 75039
standards adopted under them, the "Resource Conservation and 75040
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 75041
amended, and all regulations adopted under it, and similar laws 75042
and rules of other states if any such prior operation was located 75043
in another state that demonstrates sufficient reliability, 75044
expertise, and competency to operate a hazardous waste facility 75045
under the applicable provisions of this chapter and Chapters 3704. 75046
and 6111. of the Revised Code, the applicable rules and standards 75047
adopted under them, and terms and conditions of a hazardous waste 75048
facility installation and operation permit, given the potential 75049
for harm to the public health and safety and the environment that 75050
could result from the irresponsible operation of the facility. For 75051
off-site facilities, as defined in section 3734.41 of the Revised 75052
Code, the director may use the investigative reports of the 75053
attorney general prepared pursuant to section 3734.42 of the 75054
Revised Code as a basis for making a finding and determination 75055
under division (D)(2)(f) of this section. 75056

(g) That the active areas within a new hazardous waste 75057
facility where acute hazardous waste as listed in 40 C.F.R. 261.33 75058
(e), as amended, or organic waste that is toxic and is listed 75059
under 40 C.F.R. 261, as amended, is being stored, treated, or 75060
disposed of and where the aggregate of the storage design capacity 75061
and the disposal design capacity of all hazardous waste in those 75062
areas is greater than two hundred fifty thousand gallons, are not 75063
located or operated within any of the following: 75064

(i) Two thousand feet of any residence, school, hospital, 75065
jail, or prison; 75066

(ii) Any naturally occurring wetland; 75067

(iii) Any flood hazard area if the applicant cannot show that 75068
the facility will be designed, constructed, operated, and 75069
maintained to prevent washout by a one-hundred-year flood. 75070

Division (D)(2)(g) of this section does not apply to the 75071
facility of any applicant who demonstrates to the director that 75072
the limitations specified in that division are not necessary 75073
because of the nature or volume of the waste and the manner of 75074
management applied, the facility will impose no substantial danger 75075
to the health and safety of persons occupying the structures 75076
listed in division (D)(2)(g)(i) of this section, and the facility 75077
is to be located or operated in an area where the proposed 75078
hazardous waste activities will not be incompatible with existing 75079
land uses in the area. 75080

(h) That the facility will not be located within the 75081
boundaries of a state park established or dedicated under Chapter 75082
1541. of the Revised Code, a state park purchase area established 75083
under section 1541.02 of the Revised Code, any unit of the 75084
national park system, or any property that lies within the 75085
boundaries of a national park or recreation area, but that has not 75086
been acquired or is not administered by the secretary of the 75087
United States department of the interior, located in this state, 75088
or any candidate area located in this state identified for 75089
potential inclusion in the national park system in the edition of 75090
the "national park system plan" submitted under paragraph (b) of 75091
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 75092
U.S.C.A. 1a-5, as amended, current at the time of filing of the 75093
application for the permit, unless the facility will be used 75094
exclusively for the storage of hazardous waste generated within 75095
the park or recreation area in conjunction with the operation of 75096
the park or recreation area. Division (D)(2)(h) of this section 75097
does not apply to the facility of any applicant for modification 75098

of a permit unless the modification application proposes to 75099
increase the land area included in the facility or to increase the 75100
quantity of hazardous waste that will be treated, stored, or 75101
disposed of at the facility. 75102

(3) Not later than one hundred eighty days after the end of 75103
the public comment period, the director, without prior hearing, 75104
shall issue or deny the permit in accordance with Chapter 3745. of 75105
the Revised Code. If the director approves an application for a 75106
hazardous waste facility installation and operation permit, the 75107
director shall issue the permit, upon such terms and conditions as 75108
the director finds are necessary to ensure the construction and 75109
operation of the hazardous waste facility in accordance with the 75110
standards of this section. 75111

(E) No political subdivision of this state shall require any 75112
additional zoning or other approval, consent, permit, certificate, 75113
or condition for the construction or operation of a hazardous 75114
waste facility authorized by a hazardous waste facility 75115
installation and operation permit issued pursuant to this chapter, 75116
nor shall any political subdivision adopt or enforce any law, 75117
ordinance, or rule that in any way alters, impairs, or limits the 75118
authority granted in the permit. 75119

(F) The director may issue a single hazardous waste facility 75120
installation and operation permit to a person who operates two or 75121
more adjoining facilities where hazardous waste is stored, 75122
treated, or disposed of if the application includes detail plans, 75123
specifications, and information on all facilities. For the 75124
purposes of this section, "adjoining" means sharing a common 75125
boundary, separated only by a public road, or in such proximity 75126
that the director determines that the issuance of a single permit 75127
will not create a hazard to the public health or safety or the 75128
environment. 75129

(G) No person shall falsify or fail to keep or submit any 75130

plans, specifications, data, reports, records, manifests, or other 75131
information required to be kept or submitted to the director by 75132
this chapter or the rules adopted under it. 75133

(H)(1) Each person who holds an installation and operation 75134
permit issued under this section and who wishes to obtain a permit 75135
renewal shall submit a completed application for an installation 75136
and operation permit renewal and any necessary accompanying 75137
general plans, detail plans, specifications, and such information 75138
as the director may require to the director no later than one 75139
hundred eighty days prior to the expiration date of the existing 75140
permit or upon a later date prior to the expiration of the 75141
existing permit if the permittee can demonstrate good cause for 75142
the late submittal. The director shall consider the application 75143
and accompanying information, inspection reports of the facility, 75144
results of performance tests, a report regarding the facility's 75145
compliance or noncompliance with the terms and conditions of its 75146
permit and rules adopted by the director under this chapter, and 75147
such other information as is relevant to the operation of the 75148
facility and shall issue a draft renewal permit or a notice of 75149
intent to deny the renewal permit. The director, in accordance 75150
with rules adopted under this section or with rules adopted to 75151
implement Chapter 3745. of the Revised Code, shall give public 75152
notice of the application and draft renewal permit or notice of 75153
intent to deny the renewal permit, provide for the opportunity for 75154
public comments within a specified time period, schedule a public 75155
meeting in the county in which the facility is located if 75156
significant interest is shown, and give public notice of the 75157
public meeting. 75158

(2) Within sixty days after the public meeting or close of 75159
the public comment period, the director, without prior hearing, 75160
shall issue or deny the renewal permit in accordance with Chapter 75161
3745. of the Revised Code. The director shall not issue a renewal 75162

permit unless the director determines that the facility under the 75163
existing permit has a history of compliance with this chapter, 75164
rules adopted under it, the existing permit, or orders entered to 75165
enforce such requirements that demonstrates sufficient 75166
reliability, expertise, and competency to operate the facility 75167
henceforth under this chapter, rules adopted under it, and the 75168
renewal permit. If the director approves an application for a 75169
renewal permit, the director shall issue the permit subject to the 75170
payment of the annual permit fee required under division (E) of 75171
section 3734.02 of the Revised Code and upon such terms and 75172
conditions as the director finds are reasonable to ensure that 75173
continued operation, maintenance, closure, and post-closure care 75174
of the hazardous waste facility are in accordance with the rules 75175
adopted under section 3734.12 of the Revised Code. 75176

(3) An installation and operation permit renewal application 75177
submitted to the director that also contains or would constitute 75178
an application for a modification shall be acted upon by the 75179
director in accordance with division (I) of this section in the 75180
same manner as an application for a modification. In approving or 75181
disapproving the renewal portion of a permit renewal application 75182
containing an application for a modification, the director shall 75183
apply the criteria established under division (H)(2) of this 75184
section. 75185

(4) An application for renewal or modification of a permit 75186
that does not contain an application for a modification as 75187
described in divisions (I)(3)(a) to (d) of this section shall not 75188
be subject to division (D)(2) of this section. 75189

(I)(1) As used in this section, "modification" means a change 75190
or alteration to a hazardous waste facility or its operations that 75191
is inconsistent with or not authorized by its existing permit or 75192
authorization to operate. Modifications shall be classified as 75193
Class 1, 2, or 3 modifications in accordance with rules adopted 75194

under division (K) of this section. Modifications classified as 75195
Class 3 modifications, in accordance with rules adopted under that 75196
division, shall be further classified by the director as either 75197
Class 3 modifications that are to be approved or disapproved by 75198
the director under divisions (I)(3)(a) to (d) of this section or 75199
as Class 3 modifications that are to be approved or disapproved by 75200
the director under division (I)(5) of this section. Not later than 75201
thirty days after receiving a request for a modification under 75202
division (I)(4) of this section that is not listed in Appendix I 75203
to 40 C.F.R. 270.42 or in rules adopted under division (K) of this 75204
section, the director shall classify the modification and shall 75205
notify the owner or operator of the facility requesting the 75206
modification of the classification. Notwithstanding any other law 75207
to the contrary, a modification that involves the transfer of a 75208
hazardous waste facility installation and operation permit to a 75209
new owner or operator for any off-site facility as defined in 75210
section 3734.41 of the Revised Code shall be classified as a Class 75211
3 modification. The transfer of a hazardous waste facility 75212
installation and operation permit to a new owner or operator for a 75213
facility that is not an off-site facility shall be classified as a 75214
Class 1 modification requiring prior approval of the director. 75215

(2) Except as provided in section 3734.123 of the Revised 75216
Code, a hazardous waste facility installation and operation permit 75217
may be modified at the request of the director or upon the written 75218
request of the permittee only if any of the following applies: 75219

(a) The permittee desires to accomplish alterations, 75220
additions, or deletions to the permitted facility or to undertake 75221
alterations, additions, deletions, or activities that are 75222
inconsistent with or not authorized by the existing permit; 75223

(b) New information or data justify permit conditions in 75224
addition to or different from those in the existing permit; 75225

(c) The standards, criteria, or rules upon which the existing 75226

permit is based have been changed by new, amended, or rescinded 75227
standards, criteria, or rules, or by judicial decision after the 75228
existing permit was issued, and the change justifies permit 75229
conditions in addition to or different from those in the existing 75230
permit; 75231

(d) The permittee proposes to transfer the permit to another 75232
person. 75233

(3) The director shall approve or disapprove an application 75234
for a modification in accordance with division (D)(2) of this 75235
section and rules adopted under division (K) of this section for 75236
all of the following categories of Class 3 modifications: 75237

(a) Authority to conduct treatment, storage, or disposal at a 75238
site, location, or tract of land that has not been authorized for 75239
the proposed category of treatment, storage, or disposal activity 75240
by the facility's permit; 75241

(b) Modification or addition of a hazardous waste management 75242
unit, as defined in rules adopted under section 3734.12 of the 75243
Revised Code, that results in an increase in a facility's storage 75244
capacity of more than twenty-five per cent over the capacity 75245
authorized by the facility's permit, an increase in a facility's 75246
treatment rate of more than twenty-five per cent over the rate so 75247
authorized, or an increase in a facility's disposal capacity over 75248
the capacity so authorized. The authorized disposal capacity for a 75249
facility shall be calculated from the approved design plans for 75250
the disposal units at that facility. In no case during a five-year 75251
period shall a facility's storage capacity or treatment rate be 75252
modified to increase by more than twenty-five per cent in the 75253
aggregate without the director's approval in accordance with 75254
division (D)(2) of this section. Notwithstanding any provision of 75255
division (I) of this section to the contrary, a request for 75256
modification of a facility's annual total waste receipt limit 75257
shall be classified and approved or disapproved by the director 75258

under division (I)(5) of this section. 75259

(c) Authority to add any of the following categories of 75260
regulated activities not previously authorized at a facility by 75261
the facility's permit: storage at a facility not previously 75262
authorized to store hazardous waste, treatment at a facility not 75263
previously authorized to treat hazardous waste, or disposal at a 75264
facility not previously authorized to dispose of hazardous waste; 75265
or authority to add a category of hazardous waste management unit 75266
not previously authorized at the facility by the facility's 75267
permit. Notwithstanding any provision of division (I) of this 75268
section to the contrary, a request for authority to add or to 75269
modify an activity or a hazardous waste management unit for the 75270
purposes of performing a corrective action shall be classified and 75271
approved or disapproved by the director under division (I)(5) of 75272
this section. 75273

(d) Authority to treat, store, or dispose of waste types 75274
listed or characterized as reactive or explosive, in rules adopted 75275
under section 3734.12 of the Revised Code, or any acute hazardous 75276
waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not 75277
previously authorized to treat, store, or dispose of those types 75278
of wastes by the facility's permit unless the requested authority 75279
is limited to wastes that no longer exhibit characteristics 75280
meeting the criteria for listing or characterization as reactive 75281
or explosive wastes, or for listing as acute hazardous waste, but 75282
still are required to carry those waste codes as established in 75283
rules adopted under section 3734.12 of the Revised Code because of 75284
the requirements established in 40 C.F.R. 261(a) and (e), as 75285
amended, that is, the "mixture," "derived-from," or "contained-in" 75286
regulations. 75287

(4) A written request for a modification from the permittee 75288
shall be submitted to the director and shall contain such 75289
information as is necessary to support the request. Requests for 75290

modifications shall be acted upon by the director in accordance 75291
with this section and rules adopted under it. 75292

(5) Class 1 modification applications that require prior 75293
approval of the director, as provided in division (I)(1) of this 75294
section or as determined in accordance with rules adopted under 75295
division (K) of this section, Class 2 modification applications, 75296
and Class 3 modification applications that are not described in 75297
divisions (I)(3)(a) to (d) of this section shall be approved or 75298
disapproved by the director in accordance with rules adopted under 75299
division (K) of this section. The board of county commissioners of 75300
the county, the board of township trustees of the township, and 75301
the city manager or mayor of the municipal corporation in which a 75302
hazardous waste facility is located shall receive notification of 75303
any application for a modification for that facility and shall be 75304
considered as interested persons with respect to the director's 75305
consideration of the application. 75306

As used in division (I) of this section: 75307

(a) "Owner" means the person who owns a majority or 75308
controlling interest in a facility. 75309

(b) "Operator" means the person who is responsible for the 75310
overall operation of a facility. 75311

The director shall approve or disapprove an application for a 75312
Class 1 modification that requires the director's approval within 75313
sixty days after receiving the request for modification. The 75314
director shall approve or disapprove an application for a Class 2 75315
modification within three hundred days after receiving the request 75316
for modification. The director shall approve or disapprove an 75317
application for a Class 3 modification within three hundred 75318
sixty-five days after receiving the request for modification. 75319

(6) The approval or disapproval by the director of a Class 1 75320
modification application is not a final action that is appealable 75321

under Chapter 3745. of the Revised Code. The approval or 75322
disapproval by the director of a Class 2 modification or a Class 3 75323
modification is a final action that is appealable under that 75324
chapter. In approving or disapproving a request for a 75325
modification, the director shall consider all comments pertaining 75326
to the request that are received during the public comment period 75327
and the public meetings. The administrative record for appeal of a 75328
final action by the director in approving or disapproving a 75329
request for a modification shall include all comments received 75330
during the public comment period relating to the request for 75331
modification, written materials submitted at the public meetings 75332
relating to the request, and any other documents related to the 75333
director's action. 75334

(7) Notwithstanding any other provision of law to the 75335
contrary, a change or alteration to a hazardous waste facility 75336
described in division (E)(3)(a) or (b) of section 3734.02 of the 75337
Revised Code, or its operations, is a modification for the 75338
purposes of this section. An application for a modification at 75339
such a facility shall be submitted, classified, and approved or 75340
disapproved in accordance with divisions (I)(1) to (6) of this 75341
section in the same manner as a modification to a hazardous waste 75342
facility installation and operation permit. 75343

(J)(1) Except as provided in division (J)(2) of this section, 75344
an owner or operator of a hazardous waste facility that is 75345
operating in accordance with a permit by rule under rules adopted 75346
by the director under division (E)(3)(b) of section 3734.02 of the 75347
Revised Code shall submit either a hazardous waste facility 75348
installation and operation permit application for the facility or 75349
a modification application, whichever is required under division 75350
(J)(1)(a) or (b) of this section, within one hundred eighty days 75351
after the director has requested the application or upon a later 75352
date if the owner or operator demonstrates to the director good 75353

cause for the late submittal. 75354

(a) If the owner or operator does not have a hazardous waste 75355
facility installation and operation permit for any hazardous waste 75356
treatment, storage, or disposal activities at the facility, the 75357
owner or operator shall submit an application for such a permit to 75358
the director for the activities authorized by the permit by rule. 75359
Notwithstanding any other provision of law to the contrary, the 75360
director shall approve or disapprove the application for the 75361
permit in accordance with the procedures governing the approval or 75362
disapproval of permit renewals under division (H) of this section. 75363

(b) If the owner or operator has a hazardous waste facility 75364
installation and operation permit for hazardous waste treatment, 75365
storage, or disposal activities at the facility other than those 75366
authorized by the permit by rule, the owner or operator shall 75367
submit to the director a request for modification in accordance 75368
with division (I) of this section. Notwithstanding any other 75369
provision of law to the contrary, the director shall approve or 75370
disapprove the modification application in accordance with 75371
division (I)(5) of this section. 75372

(2) The owner or operator of a boiler or industrial furnace 75373
that is conducting thermal treatment activities in accordance with 75374
a permit by rule under rules adopted by the director under 75375
division (E)(3)(b) of section 3734.02 of the Revised Code shall 75376
submit a hazardous waste facility installation and operation 75377
permit application if the owner or operator does not have such a 75378
permit for any hazardous waste treatment, storage, or disposal 75379
activities at the facility or, if the owner or operator has such a 75380
permit for hazardous waste treatment, storage, or disposal 75381
activities at the facility other than thermal treatment activities 75382
authorized by the permit by rule, a modification application to 75383
add those activities authorized by the permit by rule, whichever 75384
is applicable, within one hundred eighty days after the director 75385

has requested the submission of the application or upon a later 75386
date if the owner or operator demonstrates to the director good 75387
cause for the late submittal. The application shall be accompanied 75388
by information necessary to support the request. The director 75389
shall approve or disapprove an application for a hazardous waste 75390
facility installation and operation permit in accordance with 75391
division (D) of this section and approve or disapprove an 75392
application for a modification in accordance with division (I)(3) 75393
of this section, except that the director shall not disapprove an 75394
application for the thermal treatment activities on the basis of 75395
the criteria set forth in division (D)(2)(g) or (h) of this 75396
section. 75397

(3) As used in division (J) of this section: 75398

(a) "Modification application" means a request for a 75399
modification submitted in accordance with division (I) of this 75400
section. 75401

(b) "Thermal treatment," "boiler," and "industrial furnace" 75402
have the same meanings as in rules adopted under section 3734.12 75403
of the Revised Code. 75404

(K) The director shall adopt, and may amend, suspend, or 75405
rescind, rules in accordance with Chapter 119. of the Revised Code 75406
in order to implement divisions (H) and (I) of this section. 75407
Except when in actual conflict with this section, rules governing 75408
the classification of and procedures for the modification of 75409
hazardous waste facility installation and operation permits shall 75410
be substantively and procedurally identical to the regulations 75411
governing hazardous waste facility permitting and permit 75412
modifications adopted under the "Resource Conservation and 75413
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 75414
amended. 75415

Sec. 3734.06. (A)(1) Except as provided in ~~division~~ divisions 75416

(A)(2), (3), ~~and (4)~~, and (5) of this section and in section 75417
3734.82 of the Revised Code, the annual fee for a solid waste 75418
facility license shall be in accordance with the following 75419
schedule: 75420

AUTHORIZED MAXIMUM	ANNUAL	
DAILY WASTE	LICENSE	
RECEIPT (TONS)	FEE	
100 or less	\$ 5,000	75424
101 to 200	12,500	75425
201 to 500	30,000	75426
501 or more	60,000	75427

For the purpose of determining the applicable license fee 75428
under divisions (A)(1) ~~and (2)~~, and (3) of this section, the 75429
authorized maximum daily waste receipt shall be the maximum amount 75430
of wastes the facility is authorized to receive daily that is 75431
established in the permit for the facility, and any modifications 75432
to that permit, issued under division (A)(2) or (3) of section 75433
3734.05 of the Revised Code; the annual license for the facility, 75434
and any revisions to that license, issued under division (A)(1) of 75435
section 3734.05 of the Revised Code; the approved operating plan 75436
or operational report for which submission and approval are 75437
required by rules adopted by the director of environmental 75438
protection under section 3734.02 of the Revised Code; an order 75439
issued by the director as authorized by rule; or the updated 75440
engineering plans, specifications, and facility and operation 75441
information approved under division (A)(4) of section 3734.05 of 75442
the Revised Code. If no authorized maximum daily waste receipt is 75443
so established, the annual license fee is sixty thousand dollars 75444
under division (A)(1) of this section and thirty thousand dollars 75445
under ~~division~~ divisions (A)(2) and (3) of this section. 75446

The authorized maximum daily waste receipt set forth in any 75447
such document shall be stated in terms of cubic yards of volume 75448

for the purpose of regulating the design, construction, and 75449
operation of a solid waste facility. For the purpose of 75450
determining applicable license fees under this section, the 75451
authorized maximum daily waste receipt so stated shall be 75452
converted from cubic yards to tons as the unit of measurement 75453
based upon a conversion factor of three cubic yards per ton for 75454
compacted wastes generally and one cubic yard per ton for baled 75455
wastes. 75456

(2) The annual license fee for a facility that is an 75457
incinerator facility is one-half the amount shown in division 75458
(A)(1) of this section. When a municipal corporation, county, or 75459
township owns and operates more than one incinerator within its 75460
boundaries, the municipal corporation, county, or township shall 75461
pay one fee for the licenses for all of its incinerators. The fee 75462
shall be determined on the basis of the aggregate maximum daily 75463
waste receipt for all the incinerators owned and operated by the 75464
municipal corporation, county, or township in an amount that is 75465
one-half the amount shown in division (A)(1) of this section. 75466

(3) The annual fee for a solid waste compost facility license 75467
shall be in accordance with the following schedule: 75468

AUTHORIZED MAXIMUM	ANNUAL	75469
DAILY WASTE	LICENSE	75470
RECEIPT (TONS)	FEE	75471
12 or less	\$ 300	75472
13 to 25	600	75473
26 to 50	1,200	75474
51 to 75	1,800	75475
76 to 100	2,500	75476
101 to 200 <u>150</u>	6,250 <u>3,750</u>	75477
<u>151 to 200</u>	<u>5,000</u>	75478
201 to 500 <u>250</u>	15,000 <u>6,250</u>	75479
<u>251 to 300</u>	<u>7,500</u>	75480

<u>301 to 400</u>	<u>10,000</u>	75481
<u>401 to 500</u>	<u>12,500</u>	75482
501 or more	30,000	75483

~~(3)~~(4) The annual license fee for a solid waste facility, 75484
regardless of its authorized maximum daily waste receipt, is five 75485
thousand dollars for a facility meeting either of the following 75486
qualifications: 75487

(a) The facility is owned by a generator of solid wastes when 75488
the solid waste facility exclusively disposes of solid wastes 75489
generated at one or more premises owned by the generator 75490
regardless of whether the facility is located on a premises where 75491
the wastes are generated. 75492

(b) The facility exclusively disposes of wastes that are 75493
generated from the combustion of coal, or from the combustion of 75494
primarily coal in combination with scrap tires, that is not 75495
combined in any way with garbage at one or more premises owned by 75496
the generator. 75497

~~(4)~~(5) The annual license fee for a facility that is a 75498
transfer facility is seven hundred fifty dollars. 75499

~~(5)~~(6) The same fees shall apply to private operators and to 75500
the state and its political subdivisions and shall be paid within 75501
thirty days after issuance of a license. The fee includes the cost 75502
of licensing, all inspections, and other costs associated with the 75503
administration of the solid waste provisions of this chapter and 75504
rules adopted under them, excluding the provisions governing scrap 75505
tires. Each such license shall specify that it is conditioned upon 75506
payment of the applicable fee to the board of health or the 75507
director, as appropriate, within thirty days after issuance of the 75508
license. 75509

(B) The board of health shall retain two thousand five 75510
hundred dollars of each license fee collected by the board under 75511

divisions (A)(1), (2), ~~and (3)~~, and (4) of this section or the 75512
entire amount of any such fee that is less than two thousand five 75513
hundred dollars. The moneys retained shall be paid into a special 75514
fund, which is hereby created in each health district, and used 75515
solely to administer and enforce the solid waste provisions of 75516
this chapter and the rules adopted under them, excluding the 75517
provisions governing scrap tires. The remainder of each license 75518
fee collected by the board shall be transmitted to the director 75519
within forty-five days after receipt of the fee. The director 75520
shall transmit these moneys to the treasurer of state to be 75521
credited to the general revenue fund. The board of health shall 75522
retain the entire amount of each fee collected under division 75523
(A)~~(4)~~(5) of this section, which moneys shall be paid into the 75524
special fund of the health district. 75525

(C)(1) Except as provided in divisions (C)(2) and (3) of this 75526
section, the annual fee for an infectious waste treatment facility 75527
license shall be in accordance with the following schedule: 75528

AVERAGE	ANNUAL	75529
DAILY WASTE	LICENSE	75530
RECEIPT (TONS)	FEE	75531
100 or less	\$ 5,000	75532
101 to 200	12,500	75533
201 to 500	30,000	75534
501 or more	60,000	75535

For the purpose of determining the applicable license fee 75536
under divisions (C)(1) and (2) of this section, the average daily 75537
waste receipt shall be the average amount of infectious wastes the 75538
facility is authorized to receive daily that is established in the 75539
permit for the facility, and any modifications to that permit, 75540
issued under division (B)(2)(b) or (d) of section 3734.05 of the 75541
Revised Code; or the annual license for the facility, and any 75542
revisions to that license, issued under division (B)(2)(a) of 75543

section 3734.05 of the Revised Code. If no average daily waste receipt is so established, the annual license fee is sixty thousand dollars under division (C)(1) of this section and thirty thousand dollars under division (C)(2) of this section.

(2) The annual license fee for an infectious waste treatment facility that is an incinerator is one-half the amount shown in division (C)(1) of this section.

(3) Fees levied under divisions (C)(1) and (2) of this section shall apply to private operators and to the state and its political subdivisions and shall be paid within thirty days after issuance of a license. The fee includes the cost of licensing, all inspections, and other costs associated with the administration of the infectious waste provisions of this chapter and rules adopted under them. Each such license shall specify that it is conditioned upon payment of the applicable fee to the board of health or the director, as appropriate, within thirty days after issuance of the license.

(4) The board of health shall retain two thousand five hundred dollars of each license fee collected by the board under divisions (C)(1) and (2) of this section. The moneys retained shall be paid into a special infectious waste fund, which is hereby created in each health district, and used solely to administer and enforce the infectious waste provisions of this chapter and the rules adopted under them. The remainder of each license fee collected by the board shall be transmitted to the director within forty-five days after receipt of the fee. The director shall transmit these moneys to the treasurer of state to be credited to the general revenue fund.

Sec. 3734.18. (A) As used in this section:

(1) "On-site facility" means a facility that treats or disposes of hazardous waste that is generated on the premises of

the facility. 75575

(2) "Off-site facility" means a facility that treats or 75576
disposes of hazardous waste that is generated off the premises of 75577
the facility. 75578

(3) "Satellite facility" means any of the following: 75579

(a) An on-site facility that also receives hazardous waste 75580
from other premises owned by the same person who generates the 75581
waste on the facility premises; 75582

(b) An off-site facility operated so that all of the 75583
hazardous waste it receives is generated on one or more premises 75584
owned by the person who owns the facility; 75585

(c) An on-site facility that also receives hazardous waste 75586
that is transported uninterruptedly and directly to the facility 75587
through a pipeline from a generator who is not the owner of the 75588
facility. 75589

(B) A treatment or disposal facility that is subject to the 75590
fees that are levied under this section may be both an on-site 75591
facility and an off-site facility. The determination of whether an 75592
on-site facility fee or an off-site facility fee is to be paid for 75593
a hazardous waste that is treated or disposed of at the facility 75594
shall be based on whether that hazardous waste was generated on or 75595
off the premises of the facility. 75596

(C) There are hereby levied fees on the disposal of hazardous 75597
waste to be collected according to the following schedule at each 75598
disposal facility to which a hazardous waste facility installation 75599
and operation permit or renewal of a permit has been issued under 75600
this chapter or that is operating in accordance with a permit by 75601
rule under rules adopted by the director of environmental 75602
protection: 75603

(1) For disposal facilities that are off-site facilities, 75604

fees shall be levied at the rate of four dollars and fifty cents 75605
per ton for hazardous waste disposed of by deep well injection and 75606
nine dollars per ton for hazardous waste disposed of by land 75607
application or landfilling. The owner or operator of the facility, 75608
as a trustee for the state, shall collect the fees and forward 75609
them to the director in accordance with rules adopted under this 75610
section. 75611

(2) For disposal facilities that are on-site or satellite 75612
facilities, fees shall be levied at the rate of two dollars per 75613
ton for hazardous waste disposed of by deep well injection and 75614
four dollars per ton for hazardous waste disposed of by land 75615
application or landfilling. The maximum annual disposal fee for an 75616
on-site disposal facility that disposes of one hundred thousand 75617
tons or less of hazardous waste in a year is twenty-five thousand 75618
dollars. The maximum annual disposal fee for an on-site facility 75619
that disposes of more than one hundred thousand tons of hazardous 75620
waste in a year by land application or landfilling is fifty 75621
thousand dollars, and the maximum annual fee for an on-site 75622
facility that disposes of more than one hundred thousand tons of 75623
hazardous waste in a year by deep well injection is one hundred 75624
thousand dollars. The maximum annual disposal fee for a satellite 75625
facility that disposes of one hundred thousand tons or less of 75626
hazardous waste in a year is thirty-seven thousand five hundred 75627
dollars, and the maximum annual disposal fee for a satellite 75628
facility that disposes of more than one hundred thousand tons of 75629
hazardous waste in a year is seventy-five thousand dollars, except 75630
that a satellite facility defined under division (A)(3)(b) of this 75631
section that receives hazardous waste from a single generation 75632
site is subject to the same maximum annual disposal fees as an 75633
on-site disposal facility. The owner or operator shall pay the fee 75634
to the director each year upon the anniversary of the date of 75635
issuance of the owner's or operator's installation and operation 75636
permit during the term of that permit and any renewal permit 75637

issued under division (H) of section 3734.05 of the Revised Code 75638
or on the anniversary of the date of a permit by rule. If payment 75639
is late, the owner or operator shall pay an additional ten per 75640
cent of the amount of the fee for each month that it is late. 75641

(D) There are hereby levied fees at the rate of two dollars 75642
per ton on hazardous waste that is treated at treatment facilities 75643
that are not on-site or satellite facilities to which a hazardous 75644
waste facility installation and operation permit or renewal of a 75645
permit has been issued under this chapter, whose owner or operator 75646
is operating in accordance with a permit by rule under rules 75647
adopted by the director, or that are not subject to the hazardous 75648
waste facility installation and operation permit requirements 75649
under rules adopted by the director. 75650

(E) There are hereby levied additional fees on the treatment 75651
and disposal of hazardous waste at the rate of ten per cent of the 75652
applicable fees prescribed in division (C) or (D) of this section 75653
for the purposes of paying the costs of municipal corporations and 75654
counties for conducting reviews of applications for hazardous 75655
waste facility installation and operation permits for proposed new 75656
or modified hazardous waste landfills within their boundaries, 75657
emergency response actions with respect to releases of hazardous 75658
waste from hazardous waste facilities within their boundaries, 75659
monitoring the operation of such hazardous waste facilities, and 75660
local waste management planning programs. The owner or operator of 75661
a facility located within a municipal corporation, as a trustee 75662
for the municipal corporation, shall collect the fees levied by 75663
this division and forward them to the treasurer of the municipal 75664
corporation or such officer as, by virtue of the charter, has the 75665
duties of the treasurer in accordance with rules adopted under 75666
this section. The owner or operator of a facility located in an 75667
unincorporated area, as a trustee of the county in which the 75668
facility is located, shall collect the fees levied by this 75669

division and forward them to the county treasurer of that county 75670
in accordance with rules adopted under this section. The owner or 75671
operator shall pay the fees levied by this division to the 75672
treasurer or such other officer of the municipal corporation or to 75673
the county treasurer each year upon the anniversary of the date of 75674
issuance of the owner's or operator's installation and operation 75675
permit during the term of that permit and any renewal permit 75676
issued under division (H) of section 3734.05 of the Revised Code 75677
or on the anniversary of the date of a permit by rule or the date 75678
on which the facility became exempt from hazardous waste facility 75679
installation and operation permit requirements under rules adopted 75680
by the director. If payment is late, the owner or operator shall 75681
pay an additional ten per cent of the amount of the fee for each 75682
month that the payment is late. 75683

Moneys received by a municipal corporation under this 75684
division shall be paid into a special fund of the municipal 75685
corporation and used exclusively for the purposes of conducting 75686
reviews of applications for hazardous waste facility installation 75687
and operation permits for new or modified hazardous waste 75688
landfills located or proposed within the municipal corporation, 75689
conducting emergency response actions with respect to releases of 75690
hazardous waste from facilities located within the municipal 75691
corporation, monitoring operation of such hazardous waste 75692
facilities, and conducting waste management planning programs 75693
within the municipal corporation through employees of the 75694
municipal corporation or pursuant to contracts entered into with 75695
persons or political subdivisions. Moneys received by a board of 75696
county commissioners under this division shall be paid into a 75697
special fund of the county and used exclusively for those purposes 75698
within the unincorporated area of the county through employees of 75699
the county or pursuant to contracts entered into with persons or 75700
political subdivisions. 75701

(F) As used in this section, "treatment" or "treated" does not include any method, technique, or process designed to recover energy or material resources from the waste or to render the waste amenable for recovery. The fees levied by division (D) of this section do not apply to hazardous waste that is treated and disposed of on the same premises or by the same person.

(G) The director, by rules adopted in accordance with Chapters 119. and 3745. of the Revised Code, shall prescribe any dates not specified in this section and procedures for collecting and forwarding the fees prescribed by this section and may prescribe other requirements that are necessary to carry out this section.

The director shall deposit the moneys collected under divisions (C) and (D) of this section ~~into one or more minority banks, as "minority bank" is defined in division (F)(1) of section 135.04 of the Revised Code,~~ to the credit of the hazardous waste facility management fund, which is hereby created in the state treasury, except that the director shall deposit to the credit of the underground injection control fund created in section 6111.046 of the Revised Code moneys in excess of fifty thousand dollars that are collected during a fiscal year under division (C)(2) of this section from the fee levied on the disposal of hazardous waste by deep well injection at an on-site disposal facility that disposes of more than one hundred thousand tons of hazardous waste in a year.

The environmental protection agency may use moneys in the hazardous waste facility management fund for administration of the hazardous waste program established under this chapter and, in accordance with this section, may request approval by the controlling board on an annual basis for that use ~~on an annual basis. In addition, the agency may use and pledge moneys in that fund for repayment of and for interest on any loans made by the~~

~~Ohio water development authority to the agency for the hazardous waste program established under this chapter without the necessity of requesting approval by the controlling board, which use and pledge shall have priority over any other use of the moneys in the fund and for the purposes specified in sections 3734.19 to 3734.27 of the Revised Code.~~

~~Until September 28, 1996, the director also may use moneys in the fund to pay the start up costs of administering Chapter 3746. of the Revised Code.~~

If moneys in the fund that the agency uses in accordance with this chapter are reimbursed by grants or other moneys from the United States government, the grants or other moneys shall be placed in the fund.

Before the agency makes any expenditure from the fund other than for repayment of and interest on any loan made by the Ohio water development authority to the agency ~~in accordance with this section~~, the controlling board shall approve the expenditure.

Sec. 3734.19. (A) If the legislative or executive authority of a municipal corporation, county, or township has evidence to indicate that locations within its boundaries once served as hazardous waste facilities or that significant quantities of hazardous waste were disposed of in solid waste facilities within its boundaries, it may file a formal written request with the director of environmental protection, accompanied by supporting evidence, to survey the locations or facilities.

Upon receipt of a request and a review of the evidence submitted with the request, the director shall conduct an investigation to determine if hazardous waste was actually treated, stored, or disposed of at the locations or facilities and, if so, to determine the nature and approximate quantity and types of the waste treated, stored, or disposed of at the

particular locations or facilities. In addition, the director 75765
shall determine whether the locations or facilities, because of 75766
their present condition and the nature and quantities of waste 75767
treated, stored, or disposed of therein, result or are likely to 75768
result in air pollution, pollution of the waters of the state, or 75769
soil contamination or constitute a present or imminent and 75770
substantial threat to public health or safety. The director shall 75771
report the findings of ~~his~~ the investigation to the municipal 75772
corporation, county, or township requesting the survey. 75773

For the purpose of conducting investigations under this 75774
section, the director or ~~his~~ the director's authorized 75775
representative may enter upon any public or private property. The 75776
director or ~~his~~ the director's authorized representative may apply 75777
for, and any judge of a court of common pleas shall issue, an 75778
appropriate search warrant necessary to achieve the purposes of 75779
this section within the court's territorial jurisdiction. When 75780
conducting investigations under this section, the director shall 75781
cause no unnecessary damage to any property. The director may 75782
expend moneys from the hazardous waste facility management fund 75783
created in section 3734.18 of the Revised Code, the hazardous 75784
waste clean-up fund created in section 3734.28 of the Revised 75785
Code, or the environmental protection remediation fund created in 75786
section 3734.281 of the Revised Code for conducting 75787
investigations. 75788

(B) As used in this section and in sections 3734.20, 3734.21, 75789
3734.23, 3734.25, and 3734.26 of the Revised Code, "soil 75790
contamination" means the presence in or on the soil of any 75791
hazardous waste or hazardous waste residue resulting from the 75792
discharge, deposit, injection, dumping, spilling, leaking, 75793
emitting, or placing into or on the soil of hazardous waste or 75794
hazardous waste residue, or any material that when discharged, 75795
deposited, injected, dumped, spilled, leaked, emitted, or placed 75796

into or on the soil becomes a hazardous waste, in any quantity or 75797
having any characteristics that are or threaten to be injurious to 75798
public health or safety, plant or animal life, or the environment 75799
or that unreasonably interfere with the comfortable enjoyment of 75800
life or property. 75801

Sec. 3734.20. (A) If the director of environmental protection 75802
has reason to believe that hazardous waste was treated, stored, or 75803
disposed of at any location within the state, the director may 75804
conduct such investigations and make such inquiries, including 75805
obtaining samples and examining and copying records, as are 75806
reasonable or necessary to determine if conditions at a hazardous 75807
waste facility, solid waste facility, or other location where the 75808
director has reason to believe hazardous waste was treated, 75809
stored, or disposed of constitute a substantial threat to public 75810
health or safety or are causing or contributing to or threatening 75811
to cause or contribute to air or water pollution or soil 75812
contamination. The director or the director's authorized 75813
representative may apply for, and any judge of a court of common 75814
pleas shall issue, an appropriate search warrant necessary to 75815
achieve the purposes of this section within the court's 75816
territorial jurisdiction. The director may expend moneys from the 75817
hazardous waste facility management fund created in section 75818
3734.18 of the Revised Code, the hazardous waste clean-up fund 75819
created in section 3734.28 of the Revised Code, or the 75820
environmental protection remediation fund created in section 75821
3734.281 of the Revised Code for conducting investigations under 75822
this section. 75823

(B) If the director determines that conditions at a hazardous 75824
waste facility, solid waste facility, or other location where 75825
hazardous waste was treated, stored, or disposed of constitute a 75826
substantial threat to public health or safety or are causing or 75827
contributing to or threatening to cause or contribute to air or 75828

water pollution or soil contamination, the director shall initiate 75829
appropriate action under this chapter or Chapter 3704. or 6111. of 75830
the Revised Code or seek any other appropriate legal or equitable 75831
remedies to abate the pollution or contamination or to protect 75832
public health or safety. 75833

If an order of the director to abate or prevent air or water 75834
pollution or soil contamination or to remedy a threat to public 75835
health or safety caused by conditions at such a facility issued 75836
pursuant to this chapter or Chapter 3704. or 6111. of the Revised 75837
Code is not wholly complied with within the time prescribed in the 75838
order, the director may, through officers or employees of the 75839
environmental protection agency or through contractors employed 75840
for that purpose in accordance with the bidding procedure 75841
established in division (C) of section 3734.23 of the Revised 75842
Code, enter upon the facility and perform those measures necessary 75843
to abate or prevent air or water pollution or soil contamination 75844
from the facility or to protect public health or safety, 75845
including, but not limited to, measures prescribed in division (B) 75846
of section 3734.23 of the Revised Code. The director shall keep an 75847
itemized record of the cost of the investigation and measures 75848
performed, including costs for labor, materials, and any contract 75849
services required. Upon completion of the investigation or 75850
measures, the director shall record the cost of performing those 75851
measures at the office of the county recorder of the county in 75852
which the facility is located. The cost so recorded constitutes a 75853
lien against the property on which the facility is located until 75854
discharged. Upon written request of the director, the attorney 75855
general shall institute a civil action to recover the cost. Any 75856
moneys so received shall be credited to the hazardous waste 75857
facility management fund, the hazardous waste clean-up fund, or 75858
the environmental protection remediation fund, as applicable. 75859

When entering upon a facility under this division, the 75860

director shall perform or cause to be performed only those 75861
measures necessary to abate or prevent air or water pollution or 75862
soil contamination caused by conditions at the facility or to 75863
abate threats to public health or safety caused by conditions at 75864
the facility. For this purpose the director may expend moneys from 75865
~~either the hazardous waste facility management fund, the hazardous~~ 75866
waste clean-up fund, or the environmental protection remediation 75867
fund and may expend moneys from loans from the Ohio water 75868
development authority to the environmental protection agency that 75869
pledge moneys from ~~either the hazardous waste facility management~~ 75870
fund, the hazardous waste clean-up fund, or the environmental 75871
protection remediation fund for the repayment of and for the 75872
interest on such loans. 75873

Sec. 3734.21. (A) The director of environmental protection 75874
may expend moneys credited to the hazardous waste facility 75875
management fund created in section 3734.18 of the Revised Code, 75876
the hazardous waste clean-up fund created in section 3734.28 of 75877
the Revised Code, or the environmental protection remediation fund 75878
created in section 3734.281 of the Revised Code for the payment of 75879
the cost of measures necessary for the proper closure of hazardous 75880
waste facilities or any solid waste facilities containing 75881
significant quantities of hazardous waste, for the payment of 75882
costs of the development and construction of suitable hazardous 75883
waste facilities required by division (B) of section 3734.23 of 75884
the Revised Code to the extent the director determines that such 75885
facilities are not available, and for the payment of costs that 75886
are necessary to abate conditions thereon that are causing or 75887
contributing to or threatening to cause or contribute to air or 75888
water pollution or soil contamination or that constitute a 75889
substantial threat to public health or safety. In addition, the 75890
director may expend and pledge moneys credited to ~~either the~~ 75891
hazardous waste facility management fund, the hazardous waste 75892

clean-up fund, or the environmental protection remediation fund 75893
for repayment of and for interest on any loan made by the Ohio 75894
water development authority to the environmental protection agency 75895
for the payment of such costs. 75896

(B) Before beginning to clean up any facility under this 75897
section, the director shall develop a plan for the cleanup and an 75898
estimate of the cost thereof. The plan shall include only those 75899
measures necessary to abate conditions thereon that are causing or 75900
contributing to or threatening to cause or contribute to air or 75901
water pollution or soil contamination or that constitute a 75902
substantial threat to public health or safety, including, but not 75903
limited to, establishment and maintenance of an adequate cover of 75904
soil and vegetation on any facility for the burial of hazardous 75905
waste to prevent the infiltration of water into cells where 75906
hazardous waste is buried, the accumulation or runoff of 75907
contaminated surface water, the production of leachate, and air 75908
emissions of hazardous waste; the collection and treatment of 75909
contaminated surface water runoff; the collection and treatment of 75910
leachate; or, if conditions so require, the removal of hazardous 75911
waste from the facility and the treatment or disposal of the waste 75912
at a suitable hazardous waste facility. The plan or any part of 75913
the plan for the cleanup of the facility shall be carried out by 75914
entering into contracts therefor in accordance with the procedures 75915
established in division (C) of section 3734.23 of the Revised 75916
Code. 75917

Sec. 3734.22. Before beginning to clean up any facility under 75918
section 3734.21 of the Revised Code, the director of environmental 75919
protection shall endeavor to enter into an agreement with the 75920
owner of the land on which the facility is located, or with the 75921
owner of the facility, specifying the measures to be performed and 75922
authorizing the director, employees of the agency, or contractors 75923
retained by the director to enter upon the land and perform the 75924

specified measures. 75925

Each agreement may contain provisions for the reimbursement 75926
of the state for the costs of the cleanup. 75927

All reimbursements and payments shall be credited to the 75928
hazardous waste facility management fund created in section 75929
3734.18 of the Revised Code, the hazardous waste clean-up fund 75930
created in section 3734.28 of the Revised Code, or the 75931
environmental protection remediation fund created in section 75932
3734.281 of the Revised Code, as applicable. 75933

The agreement may require the owner to execute an easement 75934
whereby the director, an authorized employee of the agency, or a 75935
contractor employed by the agency in accordance with the bidding 75936
procedure established in division (C) of section 3734.23 of the 75937
Revised Code may enter upon the facility to sample, repair, or 75938
reconstruct air and water quality monitoring equipment constructed 75939
under the agreement. Such easements shall be for a specified 75940
period of years and may be extinguished by agreement between the 75941
owner and the director. When necessary to protect the public 75942
health or safety, the agreement may require the owner to enter 75943
into an environmental covenant with the director in accordance 75944
with sections 5301.80 to 5301.92 of the Revised Code. 75945

Upon a breach of the reimbursement provisions of the 75946
agreement by the owner of the land or facility, or upon 75947
notification to the director by the owner that the owner is unable 75948
to perform the duties under the reimbursement provisions of the 75949
agreement, the director may record the unreimbursed portion of the 75950
costs of cleanup at the office of the county recorder of the 75951
county in which the facility is located. The costs so recorded 75952
constitute a lien against the property on which the facility is 75953
located until discharged. Upon written request of the director, 75954
the attorney general shall institute a civil action to recover the 75955
unreimbursed portion of the costs of cleanup. Any moneys so 75956

recovered shall be credited to the hazardous waste facility management fund, 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 facility management fund created in section 3734.18 of the Revised Code, 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 moneys from loans from the Ohio water development authority to the environmental protection agency that pledge moneys from ~~either~~ the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund for the repayment of and for the interest on such loans. Any lands or facilities purchased or acquired under this section shall be deeded to the state, but no deed shall be accepted or the purchase price paid until the title has been approved by the attorney general.

(B) The director shall, with respect to any land or facility acquired under this section or cleaned up under section 3734.20 of the Revised Code, perform closure or other measures necessary to abate conditions thereon that are causing or contributing to or threatening to cause or contribute to air or water pollution or

soil contamination or that constitute a substantial threat to 75989
public health or safety, including, but not limited to, 75990
establishment and maintenance of an adequate cover of soil and 75991
vegetation on any facility for the burial of hazardous waste to 75992
prevent the infiltration of water into cells where hazardous waste 75993
is buried, the accumulation or runoff of contaminated surface 75994
water, the production of leachate, and air emissions of hazardous 75995
waste; the collection and treatment of contaminated surface water 75996
runoff; the collection and treatment of leachate; or, if 75997
conditions so require, the removal of hazardous waste from the 75998
facility and the treatment or disposal of the waste at a suitable 75999
hazardous waste facility. After performing these measures, the 76000
director shall provide for the post-closure care, maintenance, and 76001
monitoring of facilities cleaned up under this section. 76002

(C) Before proceeding to clean up any facility under this 76003
section or section 3734.20 or 3734.21 of the Revised Code, the 76004
director shall develop a plan for the cleanup of the facility and 76005
an estimate of the cost thereof. The director may carry out the 76006
plan or any part of the plan by contracting for the services, 76007
construction, and repair necessary therefor. The director shall 76008
award each such contract to the lowest responsible bidder after 76009
sealed bids therefor are received, opened, and published at the 76010
time fixed by the director and notice of the time and place at 76011
which the sealed bids will be received, opened, and published has 76012
been published by the director in a newspaper of general 76013
circulation in the county in which the facility to be cleaned up 76014
under the contract is located at least once within the ten days 76015
before the opening of the bids. However, if after advertising for 76016
bids for the contract, no bids are received by the director at the 76017
time and place fixed for receiving them, the director may 76018
advertise again for bids, or the director may, if the director 76019
considers the public interest will best be served thereby, enter 76020
into a contract for the cleanup of the facility without further 76021

advertisement for bids. The director may reject any or all bids 76022
received and fix and publish again notice of the time and place at 76023
which bids for the contracts will be received, opened, and 76024
published. 76025

(D) The director shall keep an itemized record of the costs 76026
of any acquisition under division (A) of this section and the 76027
costs of cleanup under division (B) of this section. 76028

Sec. 3734.24. After the cleanup of a solid waste facility or 76029
a hazardous waste facility acquired and cleaned up under section 76030
3734.23 of the Revised Code, the director of environmental 76031
protection may, if the facility is suitable for use by any other 76032
state department, agency, office, or institution and if the 76033
proposed use of the facility is compatible with the condition of 76034
the facility as cleaned up, transfer the facility to that state 76035
department, agency, office, or institution. The director shall 76036
continue to provide for the post-closure care, maintenance, and 76037
monitoring of any such cleaned-up facility as required by section 76038
3734.23 of the Revised Code. 76039

If the director determines that any facility so cleaned up is 76040
suitable, because of its condition as cleaned up, for restricted 76041
or unrestricted use, the director may, with the approval of the 76042
attorney general, sell the facility if the sale is advantageous to 76043
the state. Prior to selling the cleaned-up facility, the director 76044
shall, when necessary to protect public health or safety, enter 76045
into an environmental covenant in accordance with sections 5301.80 76046
to 5301.92 of the Revised Code. When selling any such cleaned-up 76047
facility, the director shall retain the right to enter upon the 76048
facility, in person or by an authorized agent, to provide for the 76049
post-closure care, maintenance, and monitoring of the facility. 76050
The director shall provide for the post-closure care, maintenance, 76051
and monitoring of any such facility sold as required by section 76052

3734.23 of the Revised Code. 76053

With the approval of the attorney general, the director may 76054
grant easements or leases on any such cleaned-up facility if the 76055
director determines that the use of the facility under the 76056
easement or lease is compatible with its condition as cleaned up. 76057

Any moneys derived from the sale of such cleaned-up 76058
facilities or from payments from easements or leases shall be 76059
credited to the hazardous waste facility management fund created 76060
in section 3734.18 of the Revised Code, the hazardous waste 76061
clean-up fund created in section 3734.28 of the Revised Code, or 76062
the environmental protection remediation fund created in section 76063
3734.281 of the Revised Code, as applicable. 76064

Sec. 3734.25. (A) The director of environmental protection 76065
may make grants of moneys from the hazardous waste facility 76066
management fund created in section 3734.18 of the Revised Code or 76067
the hazardous waste clean-up fund created in section 3734.28 of 76068
the Revised Code for payment by the state of up to two-thirds of 76069
the reasonable and necessary expenses incurred by a municipal 76070
corporation, county, or township for the proper closure of or 76071
abatement of air or water pollution or soil contamination from a 76072
solid waste facility in which significant quantities of hazardous 76073
waste were disposed of and that the political subdivision owns and 76074
once operated. 76075

(B) A municipal corporation, county, or township shall submit 76076
an application for a grant on forms provided by the director, 76077
together with detail plans and specifications indicating the 76078
measures to be performed, an itemized estimate of the project's 76079
cost, a description of the project's benefits, and such other 76080
information as the director prescribes. The plan for closure or 76081
abatement of air or water pollution or soil contamination may be 76082
prepared in consultation with the director or the board of health 76083

of the city or general health district in which the facility is 76084
located. The director may award the applicant a grant only if the 76085
director finds that the proposed measures will provide for the 76086
proper closure of the facility and will abate or prevent air or 76087
water pollution or soil contamination, including, but not limited 76088
to, those measures necessary or desirable to: 76089

(1) In the case of a facility at which land burial of 76090
hazardous waste occurred, establish and maintain a suitable cover 76091
of soil and vegetation over the cells in which waste is buried in 76092
order to minimize erosion, the infiltration of surface water into 76093
the cells, the production of leachate, and the accumulation or 76094
runoff of contaminated surface waters and to prevent air emissions 76095
of hazardous waste from the facility; 76096

(2) Collect and treat contaminated surface water runoff from 76097
the facility; 76098

(3) Collect and treat leachate produced at the facility; 76099

(4) Install test wells and other equipment or facilities to 76100
monitor the quality of surface waters receiving runoff from the 76101
facility or to monitor air emissions of hazardous waste from the 76102
facility; 76103

(5) Regularly monitor and analyze surface water runoff from 76104
the facility, the quality of waters receiving the runoff, and 76105
ground water quality in the vicinity of the facility, and 76106
regularly monitor leachate collection and treatment systems 76107
installed under the grant and analyze samples from them; 76108

(6) Remove and dispose of hazardous waste from the facility 76109
at a suitable hazardous waste disposal facility where necessary to 76110
protect public health or safety or to prevent or abate air or 76111
water pollution or soil contamination. 76112

(C) The director shall determine the amount of the grant 76113
based upon the director's determination of what constitutes 76114

reasonable and necessary expenses for the proper closure of the 76115
facility or for the prevention or elimination of air or water 76116
pollution or soil contamination from the facility. In making a 76117
grant, the director shall enter into a contract with the municipal 76118
corporation, county, or township that owns the facility to ensure 76119
that the moneys granted are used for the purposes of this section 76120
and that measures performed are properly done. The final payment 76121
under a grant may not be made until the director inspects and 76122
approves the completed cleanup. 76123

The contract shall require the municipal corporation, county, 76124
or township to execute an easement whereby the director, an 76125
authorized employee of the agency, or a contractor employed by the 76126
director may enter upon the facility to sample, repair, or 76127
reconstruct air and water quality monitoring equipment constructed 76128
under the contract. Such easements shall be for a specified period 76129
of years and may be extinguished by agreement between the 76130
political subdivision and the director. 76131

When necessary to protect public health or safety, the 76132
contract may require the municipal corporation, county, or 76133
township to enter into an environmental covenant with the director 76134
in accordance with sections 5301.80 to 5301.92 of the Revised 76135
Code. 76136

Sec. 3734.26. (A) The director of environmental protection 76137
may make grants of moneys from the hazardous waste facility 76138
management fund created in section 3734.18 of the Revised Code or 76139
the hazardous waste clean-up fund created in section 3734.28 of 76140
the Revised Code to the owner, other than a political subdivision, 76141
of a solid waste facility in which significant quantities of 76142
hazardous waste were disposed of or a hazardous waste facility for 76143
up to fifty per cent of the cost of the reasonable and necessary 76144
expenses incurred for the proper closure of or abatement or 76145

prevention of air or water pollution or soil contamination from 76146
the facility and for developing the land on which it was located 76147
for use in industry, commerce, distribution, or research. 76148

The director shall not make grants to the owner of any land 76149
on which such facilities are located if the owner at any time 76150
owned or operated the facility located thereon for profit or in 76151
conjunction with any profit-making enterprise located in this 76152
state or to any person who at any time owned or operated a 76153
facility concerning which the director has taken action under 76154
section 3734.20, 3734.22, or 3734.23 of the Revised Code. However, 76155
the director may make grants under this section to any subsequent 76156
owner of the land, provided that the person has no affiliation 76157
with any person who owned or operated the facility located on the 76158
land for profit or in conjunction with any profit-making 76159
enterprise located in this state or who owned or operated a 76160
facility concerning which the director has taken action under 76161
section 3734.20, 3734.22, or 3734.23 of the Revised Code. 76162

(B) The owner shall submit an application for a grant on 76163
forms furnished by the director, together with detail plans and 76164
specifications for the measures to be performed to close the 76165
facility properly or to abate or prevent air or water pollution or 76166
soil contamination from the facility, an itemized estimate of the 76167
project's cost, a description of the project's estimated benefits, 76168
and such other information as the director prescribes. The plan 76169
may be prepared in consultation with the director or with the 76170
board of health of the city or general health district in which 76171
the facility is located. The director may award the applicant a 76172
grant only after finding that the proposed measures will provide 76173
for the proper closure of the facility or will abate or prevent 76174
air or water pollution or soil contamination from the facility, 76175
including, but not limited to, those measures necessary or 76176
desirable to: 76177

(1) In the case of a facility for the land burial of hazardous waste, establish and maintain a suitable cover of soil and vegetation over the cells in which waste is buried in order to minimize erosion, the infiltration of surface water into the cells, the production of leachate, and the accumulation or runoff of contaminated surface water and to prevent air emissions of hazardous waste from the facility;

(2) Collect and treat contaminated surface water runoff from the facility;

(3) Collect and treat leachate produced at the facility;

(4) Install test wells and other equipment or facilities to monitor the quality of surface waters receiving runoff from the facility or to monitor air emissions of hazardous waste from the facility;

(5) Regularly monitor and analyze surface water runoff from the facility, the quality of waters receiving the runoff, and ground water quality in the vicinity of the facility, and regularly monitor leachate collection and treatment systems installed under the grant and analyze samples from them;

(6) Remove and dispose of hazardous waste from the facility at a suitable hazardous waste disposal facility where necessary to protect public health or safety or to abate or prevent air or water pollution or soil contamination.

(C) The director shall determine the amount of the grant based upon the director's determination of what constitutes reasonable and necessary expenses for the proper closure of the facility or for the abatement or prevention of air or water pollution or soil contamination from the facility. The amount of the grant shall not exceed one-half of the total, as determined by the director, of what constitutes reasonable and necessary expenses actually incurred for the proper closure of or abatement

or prevention of air or water pollution or soil contamination from 76209
the facility. 76210

In making a grant, the director shall enter into a contract 76211
for funding with each applicant awarded a grant to ensure that the 76212
moneys granted are used for the purpose of this section and that 76213
the measures performed are properly performed. The final payment 76214
under a grant may not be made until the director inspects and 76215
approves the completed cleanup and the plans for developing the 76216
land for use in industry, commerce, distribution, or research. 76217

Each contract for funding shall contain provisions for the 76218
reimbursement of the state of a portion of the costs of the 76219
cleanup that is commensurate with the increase in the market value 76220
of the property attributable to the cleanup thereon, as determined 76221
by appraisals made before and after cleanup in the manner stated 76222
in the contract. For reimbursement of that portion, the contract 76223
may include provisions for: 76224

(1) Payment to the state of the share of the income derived 76225
from the productive use of the land; 76226

(2) Imposition of a lien in the amount of the increase in 76227
fair market value payable upon the transfer or conveyance to a new 76228
owner; 76229

(3) Waiver of all reimbursement if the determination 76230
discloses an increase in value that is insubstantial in comparison 76231
to the benefits to the public from the abatement of threats to 76232
public health or safety or from the abatement or prevention of 76233
pollution or contamination, considering the applicant's share of 76234
the cleanup cost. 76235

All reimbursements and payments shall be credited to the 76236
hazardous waste facility management fund or the hazardous waste 76237
clean-up fund ~~created in section 3734.28 of the Revised Code, as~~ 76238
applicable. 76239

(D) The contract shall require the owner to execute an easement whereby the director, an authorized employee of the agency, or a contractor employed by the agency may enter upon the facility to sample, repair, or reconstruct air and water quality monitoring equipment constructed under the contract. Such easements shall be for a specified 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 contract 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.

(E) As used in this section, "commerce" includes, but is not limited to, agriculture, forestry, and housing.

Sec. 3734.27. Before making grants from the hazardous waste facility management fund created in section 3734.18 of the Revised Code or the hazardous waste clean-up fund created in section 3734.28 of the Revised Code, the director of environmental protection shall consider each project application submitted by a political subdivision under section 3734.25 of the Revised Code, each application submitted by the owner of a facility under section 3734.26 of the Revised Code, and each facility surveyed under section 3734.19 of the Revised Code and, based upon the feasibility, cost, and public benefits of restoring the particular land and the availability of federal or other financial assistance for restoration, establish priorities for awarding grants from the fund.

Sec. 3734.28. Except as otherwise provided in ~~section~~ sections 3734.281 and 3734.282 of the Revised Code, moneys collected under sections 3734.122, 3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised Code and under the "Comprehensive Environmental Response, Compensation, and Liability

Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, 76271
including moneys recovered under division (B)(1) of this section, 76272
shall be paid into the state treasury to the credit of the 76273
hazardous waste clean-up fund, which is hereby created. In 76274
addition, ~~any moneys~~ both of the following shall be credited to 76275
the fund: 76276

(A) Moneys recovered for costs paid from the fund for 76277
activities described in divisions (A)(1) and (2) of section 76278
3745.12 of the Revised Code ~~shall be credited to the fund;~~ 76279

(B) Natural resource damage assessment costs recovered under 76280
any of the following: 76281

(1) The "Comprehensive Environmental Response, Compensation, 76282
and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601, et 76283
seq., as amended; 76284

(2) The "Oil Pollution Act of 1990," 104 Stat. 484, 33 U.S.C. 76285
2701, et seq., as amended; 76286

(3) The Federal Water Pollution Control Act as defined in 76287
section 6111.01 of the Revised Code; 76288

(4) Any other applicable federal or state law. ~~The~~ 76289

The environmental protection agency shall use the moneys in 76290
the fund for the purposes set forth in division (D) of section 76291
3734.122, sections 3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 76292
3734.26, and 3734.27, divisions (A)(1) and (2) of section 3745.12, 76293
and Chapter 3746. of the Revised Code, including any related 76294
enforcement expenses. In addition, the agency shall use the moneys 76295
in the fund to pay the state's long-term operation and maintenance 76296
costs or matching share for actions taken under the "Comprehensive 76297
Environmental Response, Compensation, and Liability Act of 1980," 76298
as amended. If those moneys are reimbursed by grants or other 76299
moneys from the United States or any other person, the moneys 76300
shall be placed in the fund and not in the general revenue fund. 76301

The director of environmental protection may enter into 76302
contracts and grant agreements with federal, state, or local 76303
government agencies, nonprofit organizations, and colleges and 76304
universities for the purpose of carrying out the responsibilities 76305
of the environmental protection agency for which money may be 76306
expended from the fund. 76307

Sec. 3734.282. ~~All~~ Except for natural resource damage 76308
assessment costs recovered by the state that are required by 76309
section 3734.28 of the Revised Code to be credited to the 76310
hazardous waste clean-up fund created in that section, all money 76311
collected by the state for natural resources damages under the 76312
"Comprehensive Environmental Response, Compensation, and Liability 76313
Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended, 76314
the "Oil Pollution Act of 1990," 104 Stat. 484, 33 U.S.C. 2701 et 76315
seq., as amended, the ~~"Clean Federal Water Pollution Control Act,"~~ 76316
~~86 Stat. 862, 33 U.S.C. 1321,~~ as amended defined in section 76317
6111.01 of the Revised Code, or any other applicable federal or 76318
state law shall be paid into the state treasury to the credit of 76319
the natural resource damages fund, which is hereby created. The 76320
director of environmental protection shall use money in the fund 76321
only in accordance with the purposes of and the limitations on 76322
natural resources damages set forth in the "Comprehensive 76323
Environmental Response, Compensation, and Liability Act of 1980," 76324
as amended, the "Oil Pollution Act of 1990," as amended, the 76325
~~"Clean Federal Water Pollution Control Act," as amended,~~ or 76326
another applicable federal or state law. All investment earnings 76327
of the fund shall be credited to the fund. 76328

The director of environmental protection may enter into 76329
contracts and grant agreements with federal, state, or local 76330
government agencies, nonprofit organizations, and colleges and 76331
universities for the purpose of carrying out the director's 76332
responsibilities for which money may be expended from the fund. 76333

Sec. 3734.57. (A) The following fees are hereby levied on the 76334
transfer or disposal of solid wastes in this state: 76335

(1) One dollar per ton ~~on and after July 1, 2003,~~ through 76336
June 30, ~~2012~~ 2014, one-half of the proceeds of which shall be 76337
deposited in the state treasury to the credit of the hazardous 76338
waste facility management fund created in section 3734.18 of the 76339
Revised Code and one-half of the proceeds of which shall be 76340
deposited in the state treasury to the credit of the hazardous 76341
waste clean-up fund created in section 3734.28 of the Revised 76342
Code; 76343

(2) An additional one dollar per ton ~~on and after July 1,~~ 76344
~~2003,~~ through June 30, ~~2012~~ 2014, the proceeds of which shall be 76345
deposited in the state treasury to the credit of the solid waste 76346
fund, which is hereby created. The environmental protection agency 76347
shall use money in the solid waste fund to pay the costs of 76348
administering and enforcing the laws pertaining to solid wastes, 76349
infectious wastes, and construction and demolition debris, 76350
including, without limitation, ground water evaluations related to 76351
solid wastes, infectious wastes, and construction and demolition 76352
debris, under this chapter and Chapter 3714. of the Revised Code 76353
and any rules adopted under them, providing compliance assistance 76354
to small businesses, and paying a share of the administrative 76355
costs of the environmental protection agency pursuant to section 76356
3745.014 of the Revised Code. 76357

(3) An additional ~~one dollar~~ two dollars and fifty cents per 76358
ton ~~on and after July 1, 2005,~~ through June 30, ~~2012~~ 2014, the 76359
proceeds of which shall be deposited in the state treasury to the 76360
credit of the environmental protection fund created in section 76361
3745.015 of the Revised Code; 76362

(4) ~~An additional one dollar per ton on and after August 1,~~ 76363
~~2009, through June 30, 2012, the proceeds of which shall be~~ 76364

~~deposited in the state treasury to the credit of the environmental
protection fund.~~ 76365
76366

(5) An additional twenty-five cents per ton ~~on and after~~ 76367
~~August 1, 2009,~~ through June 30, ~~2012~~ 2013, the proceeds of which 76368
shall be deposited in the state treasury to the credit of the soil 76369
and water conservation district assistance fund created in section 76370
1515.14 of the Revised Code. 76371

In the case of solid wastes that are taken to a solid waste 76372
transfer facility located in this state prior to being transported 76373
for disposal at a solid waste disposal facility located in this 76374
state or outside of this state, the fees levied under this 76375
division shall be collected by the owner or operator of the 76376
transfer facility as a trustee for the state. The amount of fees 76377
required to be collected under this division at such a transfer 76378
facility shall equal the total tonnage of solid wastes received at 76379
the facility multiplied by the fees levied under this division. In 76380
the case of solid wastes that are not taken to a solid waste 76381
transfer facility located in this state prior to being transported 76382
to a solid waste disposal facility, the fees shall be collected by 76383
the owner or operator of the solid waste disposal facility as a 76384
trustee for the state. The amount of fees required to be collected 76385
under this division at such a disposal facility shall equal the 76386
total tonnage of solid wastes received at the facility that was 76387
not previously taken to a solid waste transfer facility located in 76388
this state multiplied by the fees levied under this division. Fees 76389
levied under this division do not apply to materials separated 76390
from a mixed waste stream for recycling by a generator or 76391
materials removed from the solid waste stream through recycling, 76392
as "recycling" is defined in rules adopted under section 3734.02 76393
of the Revised Code. 76394

The owner or operator of a solid waste transfer facility or 76395
disposal facility, as applicable, shall prepare and file with the 76396

director of environmental protection each month a return 76397
indicating the total tonnage of solid wastes received at the 76398
facility during that month and the total amount of the fees 76399
required to be collected under this division during that month. In 76400
addition, the owner or operator of a solid waste disposal facility 76401
shall indicate on the return the total tonnage of solid wastes 76402
received from transfer facilities located in this state during 76403
that month for which the fees were required to be collected by the 76404
transfer facilities. The monthly returns shall be filed on a form 76405
prescribed by the director. Not later than thirty days after the 76406
last day of the month to which a return applies, the owner or 76407
operator shall mail to the director the return for that month 76408
together with the fees required to be collected under this 76409
division during that month as indicated on the return or may 76410
submit the return and fees electronically in a manner approved by 76411
the director. If the return is filed and the amount of the fees 76412
due is paid in a timely manner as required in this division, the 76413
owner or operator may retain a discount of three-fourths of one 76414
per cent of the total amount of the fees that are required to be 76415
paid as indicated on the return. 76416

The owner or operator may request an extension of not more 76417
than thirty days for filing the return and remitting the fees, 76418
provided that the owner or operator has submitted such a request 76419
in writing to the director together with a detailed description of 76420
why the extension is requested, the director has received the 76421
request not later than the day on which the return is required to 76422
be filed, and the director has approved the request. If the fees 76423
are not remitted within thirty days after the last day of the 76424
month to which the return applies or are not remitted by the last 76425
day of an extension approved by the director, the owner or 76426
operator shall not retain the three-fourths of one per cent 76427
discount and shall pay an additional ten per cent of the amount of 76428
the fees for each month that they are late. For purposes of 76429

calculating the late fee, the first month in which fees are late 76430
begins on the first day after the deadline has passed for timely 76431
submitting the return and fees, and one additional month shall be 76432
counted every thirty days thereafter. 76433

The owner or operator of a solid waste facility may request a 76434
refund or credit of fees levied under this division and remitted 76435
to the director that have not been paid to the owner or operator. 76436
Such a request shall be made only if the fees have not been 76437
collected by the owner or operator, have become a debt that has 76438
become worthless or uncollectable for a period of six months or 76439
more, and may be claimed as a deduction, including a deduction 76440
claimed if the owner or operator keeps accounts on an accrual 76441
basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 76442
U.S.C. 166, as amended, and regulations adopted under it. Prior to 76443
making a request for a refund or credit, an owner or operator 76444
shall make reasonable efforts to collect the applicable fees. A 76445
request for a refund or credit shall not include any costs 76446
resulting from those efforts to collect unpaid fees. 76447

A request for a refund or credit of fees shall be made in 76448
writing, on a form prescribed by the director, and shall be 76449
supported by evidence that may be required in rules adopted by the 76450
director under this chapter. After reviewing the request, and if 76451
the request and evidence submitted with the request indicate that 76452
a refund or credit is warranted, the director shall grant a refund 76453
to the owner or operator or shall permit a credit to be taken by 76454
the owner or operator on a subsequent monthly return submitted by 76455
the owner or operator. The amount of a refund or credit shall not 76456
exceed an amount that is equal to ninety days' worth of fees owed 76457
to an owner or operator by a particular debtor of the owner or 76458
operator. A refund or credit shall not be granted by the director 76459
to an owner or operator more than once in any twelve-month period 76460
for fees owed to the owner or operator by a particular debtor. 76461

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.

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.

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 paid by the customer or a political subdivision to the owner or operator of a solid waste transfer or disposal facility. In the alternative, the fees shall be paid by a customer or political subdivision to a transporter of waste who subsequently transfers the fees to the owner or operator of such a facility. The fees shall be paid notwithstanding the existence of any provision in a contract that the customer or a political subdivision may have with the owner or operator or with a transporter of waste to the facility that would not require or allow such payment regardless of whether the contract was entered prior to or after the effective date of this amendment. For those purposes, "customer" means a person who contracts with, or utilizes the solid waste services of, the owner or operator of a solid waste transfer or disposal facility or a transporter of solid waste to such a facility.

(B) For the purposes specified in division (G) of this section, the solid waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:

(1) The disposal at a solid waste disposal facility located 76494
in the district of solid wastes generated within the district; 76495

(2) The disposal at a solid waste disposal facility within 76496
the district of solid wastes generated outside the boundaries of 76497
the district, but inside this state; 76498

(3) The disposal at a solid waste disposal facility within 76499
the district of solid wastes generated outside the boundaries of 76500
this state. 76501

The solid waste management plan of the county or joint 76502
district approved under section 3734.521 or 3734.55 of the Revised 76503
Code and any amendments to it, or the resolution adopted under 76504
this division, as appropriate, shall establish the rates of the 76505
fees levied under divisions (B)(1), (2), and (3) of this section, 76506
if any, and shall specify whether the fees are levied on the basis 76507
of tons or cubic yards as the unit of measurement. A solid waste 76508
management district that levies fees under this division on the 76509
basis of cubic yards shall do so in accordance with division (A) 76510
of this section. 76511

The fee levied under division (B)(1) of this section shall be 76512
not less than one dollar per ton nor more than two dollars per 76513
ton, the fee levied under division (B)(2) of this section shall be 76514
not less than two dollars per ton nor more than four dollars per 76515
ton, and the fee levied under division (B)(3) of this section 76516
shall be not more than the fee levied under division (B)(1) of 76517
this section. 76518

Prior to the approval of the solid waste management plan of a 76519
district under section 3734.55 of the Revised Code, the solid 76520
waste management policy committee of a district may levy fees 76521
under this division by adopting a resolution establishing the 76522
proposed amount of the fees. Upon adopting the resolution, the 76523
committee shall deliver a copy of the resolution to the board of 76524

county commissioners of each county forming the district and to 76525
the legislative authority of each municipal corporation and 76526
township under the jurisdiction of the district and shall prepare 76527
and publish the resolution and a notice of the time and location 76528
where a public hearing on the fees will be held. Upon adopting the 76529
resolution, the committee shall deliver written notice of the 76530
adoption of the resolution; of the amount of the proposed fees; 76531
and of the date, time, and location of the public hearing to the 76532
director and to the fifty industrial, commercial, or institutional 76533
generators of solid wastes within the district that generate the 76534
largest quantities of solid wastes, as determined by the 76535
committee, and to their local trade associations. The committee 76536
shall make good faith efforts to identify those generators within 76537
the district and their local trade associations, but the 76538
nonprovision of notice under this division to a particular 76539
generator or local trade association does not invalidate the 76540
proceedings under this division. The publication shall occur at 76541
least thirty days before the hearing. After the hearing, the 76542
committee may make such revisions to the proposed fees as it 76543
considers appropriate and thereafter, by resolution, shall adopt 76544
the revised fee schedule. Upon adopting the revised fee schedule, 76545
the committee shall deliver a copy of the resolution doing so to 76546
the board of county commissioners of each county forming the 76547
district and to the legislative authority of each municipal 76548
corporation and township under the jurisdiction of the district. 76549
Within sixty days after the delivery of a copy of the resolution 76550
adopting the proposed revised fees by the policy committee, each 76551
such board and legislative authority, by ordinance or resolution, 76552
shall approve or disapprove the revised fees and deliver a copy of 76553
the ordinance or resolution to the committee. If any such board or 76554
legislative authority fails to adopt and deliver to the policy 76555
committee an ordinance or resolution approving or disapproving the 76556
revised fees within sixty days after the policy committee 76557

delivered its resolution adopting the proposed revised fees, it 76558
shall be conclusively presumed that the board or legislative 76559
authority has approved the proposed revised fees. The committee 76560
shall determine if the resolution has been ratified in the same 76561
manner in which it determines if a draft solid waste management 76562
plan has been ratified under division (B) of section 3734.55 of 76563
the Revised Code. 76564

The committee may amend the schedule of fees levied pursuant 76565
to a resolution adopted and ratified under this division by 76566
adopting a resolution establishing the proposed amount of the 76567
amended fees. The committee may repeal the fees levied pursuant to 76568
such a resolution by adopting a resolution proposing to repeal 76569
them. Upon adopting such a resolution, the committee shall proceed 76570
to obtain ratification of the resolution in accordance with this 76571
division. 76572

Not later than fourteen days after declaring the new fees to 76573
be ratified or the fees to be repealed under this division, the 76574
committee shall notify by certified mail the owner or operator of 76575
each solid waste disposal facility that is required to collect the 76576
fees of the ratification and the amount of the fees or of the 76577
repeal of the fees. Collection of any fees shall commence or 76578
collection of repealed fees shall cease on the first day of the 76579
second month following the month in which notification is sent to 76580
the owner or operator. 76581

Fees levied under this division also may be established, 76582
amended, or repealed by a solid waste management policy committee 76583
through the adoption of a new district solid waste management 76584
plan, the adoption of an amended plan, or the amendment of the 76585
plan or amended plan in accordance with sections 3734.55 and 76586
3734.56 of the Revised Code or the adoption or amendment of a 76587
district plan in connection with a change in district composition 76588
under section 3734.521 of the Revised Code. 76589

Not later than fourteen days after the director issues an order approving a district's solid waste management plan, amended plan, or amendment to a plan or amended plan that establishes, amends, or repeals a schedule of fees levied by the district, 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, 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, the committee, within fourteen days after the change takes effect pursuant to division (G) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has taken effect and of the amount of the fees, if any. Collection of any fees 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.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, forty-five days or more before the beginning of a calendar year, the policy committee of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change, within fourteen days after the director's completion of the required actions, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the issuance of the notice and of the amount of the fees

or amended fees levied under divisions (B)(1) to (3) of this 76623
section pursuant to the district's initial or amended plan as so 76624
approved or, if appropriate, the repeal of the district's fees by 76625
that initial or amended plan. Collection of any fees set forth in 76626
such a plan or amended plan shall commence on the first day of 76627
January immediately following the issuance of the notice. If such 76628
an initial or amended plan repeals a schedule of fees, collection 76629
of the fees shall cease on that first day of January. 76630

If, in the case of a change in district composition involving 76631
the withdrawal of a county from a joint district, the director 76632
completes the actions required under division (G)(1) or (3) of 76633
section 3734.521 of the Revised Code, as appropriate, less than 76634
forty-five days before the beginning of a calendar year, the 76635
director, on behalf of each of the districts resulting from the 76636
change that obtained the director's approval of an initial or 76637
amended plan in connection with the change proceedings, shall 76638
notify by certified mail the owner or operator of each solid waste 76639
disposal facility that is required to collect the district's fees 76640
that the change is to take effect on the first day of January 76641
immediately following the mailing of the notice and of the amount 76642
of the fees or amended fees levied under divisions (B)(1) to (3) 76643
of this section pursuant to the district's initial or amended plan 76644
as so approved or, if appropriate, the repeal of the district's 76645
fees by that initial or amended plan. Collection of any fees set 76646
forth in such a plan or amended plan shall commence on the first 76647
day of the second month following the month in which notification 76648
is sent to the owner or operator. If such an initial or amended 76649
plan repeals a schedule of fees, collection of the fees shall 76650
cease on the first day of the second month following the month in 76651
which notification is sent to the owner or operator. 76652

If the schedule of fees that a solid waste management 76653
district is levying under divisions (B)(1) to (3) of this section 76654

is amended or repealed, the fees in effect immediately prior to 76655
the amendment or repeal shall continue to be collected until 76656
collection of the amended fees commences or collection of the 76657
repealed fees ceases, as applicable, as specified in this 76658
division. In the case of a change in district composition, money 76659
so received from the collection of the fees of the former 76660
districts shall be divided among the resulting districts in 76661
accordance with division (B) of section 343.012 of the Revised 76662
Code and the agreements entered into under division (B) of section 76663
343.01 of the Revised Code to establish the former and resulting 76664
districts and any amendments to those agreements. 76665

For the purposes of the provisions of division (B) of this 76666
section establishing the times when newly established or amended 76667
fees levied by a district are required to commence and the 76668
collection of fees that have been amended or repealed is required 76669
to cease, "fees" or "schedule of fees" includes, in addition to 76670
fees levied under divisions (B)(1) to (3) of this section, those 76671
levied under section 3734.573 or 3734.574 of the Revised Code. 76672

(C) For the purposes of defraying the added costs to a 76673
municipal corporation or township of maintaining roads and other 76674
public facilities and of providing emergency and other public 76675
services, and compensating a municipal corporation or township for 76676
reductions in real property tax revenues due to reductions in real 76677
property valuations resulting from the location and operation of a 76678
solid waste disposal facility within the municipal corporation or 76679
township, a municipal corporation or township in which such a 76680
solid waste disposal facility is located may levy a fee of not 76681
more than twenty-five cents per ton on the disposal of solid 76682
wastes at a solid waste disposal facility located within the 76683
boundaries of the municipal corporation or township regardless of 76684
where the wastes were generated. 76685

The legislative authority of a municipal corporation or 76686

township may levy fees under this division by enacting an 76687
ordinance or adopting a resolution establishing the amount of the 76688
fees. Upon so doing the legislative authority shall mail a 76689
certified copy of the ordinance or resolution to the board of 76690
county commissioners or directors of the county or joint solid 76691
waste management district in which the municipal corporation or 76692
township is located or, if a regional solid waste management 76693
authority has been formed under section 343.011 of the Revised 76694
Code, to the board of trustees of that regional authority, the 76695
owner or operator of each solid waste disposal facility in the 76696
municipal corporation or township that is required to collect the 76697
fee by the ordinance or resolution, and the director of 76698
environmental protection. Although the fees levied under this 76699
division are levied on the basis of tons as the unit of 76700
measurement, the legislative authority, in its ordinance or 76701
resolution levying the fees under this division, may direct that 76702
the fees be levied on the basis of cubic yards as the unit of 76703
measurement based upon a conversion factor of three cubic yards 76704
per ton generally or one cubic yard per ton for baled wastes. 76705

Not later than five days after enacting an ordinance or 76706
adopting a resolution under this division, the legislative 76707
authority shall so notify by certified mail the owner or operator 76708
of each solid waste disposal facility that is required to collect 76709
the fee. Collection of any fee levied on or after March 24, 1992, 76710
shall commence on the first day of the second month following the 76711
month in which notification is sent to the owner or operator. 76712

(D)(1) The fees levied under divisions (A), (B), and (C) of 76713
this section do not apply to the disposal of solid wastes that: 76714

(a) Are disposed of at a facility owned by the generator of 76715
the wastes when the solid waste facility exclusively disposes of 76716
solid wastes generated at one or more premises owned by the 76717
generator regardless of whether the facility is located on a 76718

premises where the wastes are generated; 76719

~~(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 regardless of whether the disposal facility is located on the premises owned by the generator where the wastes are generated.~~ 76720
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(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 of solid waste facilities entered into under section 343.02 of the Revised Code by the board of county commissioners or board of directors of the county or joint district where the wastes are generated and disposed of. 76726
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(3) When solid wastes, other than solid wastes that consist of scrap tires, are burned in a disposal facility that is an incinerator or energy recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash remaining after burning of the solid wastes and shall be collected by the owner or operator of the sanitary landfill where the ash is disposed of. 76734
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(4) When solid wastes are delivered to a solid waste transfer facility, the fees levied under divisions (B) and (C) of this section shall be levied upon the disposal of solid wastes transported off the premises of the transfer facility for disposal and shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of. 76741
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(5) The fees levied under divisions (A), (B), and (C) of this section do not apply to sewage sludge that is generated by a waste water treatment facility holding a national pollutant discharge 76747
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elimination system permit and that is disposed of through 76750
incineration, land application, or composting or at another 76751
resource recovery or disposal facility that is not a landfill. 76752

(6) The fees levied under divisions (A), (B), and (C) of this 76753
section do not apply to solid wastes delivered to a solid waste 76754
composting facility for processing. When any unprocessed solid 76755
waste or compost product is transported off the premises of a 76756
composting facility and disposed of at a landfill, the fees levied 76757
under divisions (A), (B), and (C) of this section shall be 76758
collected by the owner or operator of the landfill where the 76759
unprocessed waste or compost product is disposed of. 76760

(7) When solid wastes that consist of scrap tires are 76761
processed at a scrap tire recovery facility, the fees levied under 76762
divisions (A), (B), and (C) of this section shall be levied upon 76763
the disposal of the fly ash and bottom ash or other solid wastes 76764
remaining after the processing of the scrap tires and shall be 76765
collected by the owner or operator of the solid waste disposal 76766
facility where the ash or other solid wastes are disposed of. 76767

(8) The director of environmental protection may issue an 76768
order exempting from the fees levied under this section solid 76769
wastes, including, but not limited to, scrap tires, that are 76770
generated, transferred, or disposed of as a result of a contract 76771
providing for the expenditure of public funds entered into by the 76772
administrator or regional administrator of the United States 76773
environmental protection agency, the director of environmental 76774
protection, or the director of administrative services on behalf 76775
of the director of environmental protection for the purpose of 76776
remediating conditions at a hazardous waste facility, solid waste 76777
facility, or other location at which the administrator or regional 76778
administrator or the director of environmental protection has 76779
reason to believe that there is a substantial threat to public 76780
health or safety or the environment or that the conditions are 76781

causing or contributing to air or water pollution or soil 76782
contamination. An order issued by the director of environmental 76783
protection under division (D)(8) of this section shall include a 76784
determination that the amount of the fees not received by a solid 76785
waste management district as a result of the order will not 76786
adversely impact the implementation and financing of the 76787
district's approved solid waste management plan and any approved 76788
amendments to the plan. Such an order is a final action of the 76789
director of environmental protection. 76790

(E) The fees levied under divisions (B) and (C) of this 76791
section shall be collected by the owner or operator of the solid 76792
waste disposal facility where the wastes are disposed of as a 76793
trustee for the county or joint district and municipal corporation 76794
or township where the wastes are disposed of. Moneys from the fees 76795
levied under division (B) of this section shall be forwarded to 76796
the board of county commissioners or board of directors of the 76797
district in accordance with rules adopted under division (H) of 76798
this section. Moneys from the fees levied under division (C) of 76799
this section shall be forwarded to the treasurer or such other 76800
officer of the municipal corporation as, by virtue of the charter, 76801
has the duties of the treasurer or to the fiscal officer of the 76802
township, as appropriate, in accordance with those rules. 76803

(F) Moneys received by the treasurer or other officer of the 76804
municipal corporation under division (E) of this section shall be 76805
paid into the general fund of the municipal corporation. Moneys 76806
received by the fiscal officer of the township under that division 76807
shall be paid into the general fund of the township. The treasurer 76808
or other officer of the municipal corporation or the township 76809
fiscal officer, as appropriate, shall maintain separate records of 76810
the moneys received from the fees levied under division (C) of 76811
this section. 76812

(G) Moneys received by the board of county commissioners or 76813

board of directors under division (E) of this section or section 76814
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code 76815
shall be paid to the county treasurer, or other official acting in 76816
a similar capacity under a county charter, in a county district or 76817
to the county treasurer or other official designated by the board 76818
of directors in a joint district and kept in a separate and 76819
distinct fund to the credit of the district. If a regional solid 76820
waste management authority has been formed under section 343.011 76821
of the Revised Code, moneys received by the board of trustees of 76822
that regional authority under division (E) of this section shall 76823
be kept by the board in a separate and distinct fund to the credit 76824
of the district. Moneys in the special fund of the county or joint 76825
district arising from the fees levied under division (B) of this 76826
section and the fee levied under division (A) of section 3734.573 76827
of the Revised Code shall be expended by the board of county 76828
commissioners or directors of the district in accordance with the 76829
district's solid waste management plan or amended plan approved 76830
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 76831
exclusively for the following purposes: 76832

(1) Preparation of the solid waste management plan of the 76833
district under section 3734.54 of the Revised Code, monitoring 76834
implementation of the plan, and conducting the periodic review and 76835
amendment of the plan required by section 3734.56 of the Revised 76836
Code by the solid waste management policy committee; 76837

(2) Implementation of the approved solid waste management 76838
plan or amended plan of the district, including, without 76839
limitation, the development and implementation of solid waste 76840
recycling or reduction programs; 76841

(3) Providing financial assistance to boards of health within 76842
the district, if solid waste facilities are located within the 76843
district, for enforcement of this chapter and rules, orders, and 76844
terms and conditions of permits, licenses, and variances adopted 76845

or issued under it, other than the hazardous waste provisions of 76846
this chapter and rules adopted and orders and terms and conditions 76847
of permits issued under those provisions; 76848

(4) Providing financial assistance to each county within the 76849
district to defray the added costs of maintaining roads and other 76850
public facilities and of providing emergency and other public 76851
services resulting from the location and operation of a solid 76852
waste facility within the county under the district's approved 76853
solid waste management plan or amended plan; 76854

(5) Pursuant to contracts entered into with boards of health 76855
within the district, if solid waste facilities contained in the 76856
district's approved plan or amended plan are located within the 76857
district, for paying the costs incurred by those boards of health 76858
for collecting and analyzing samples from public or private water 76859
wells on lands adjacent to those facilities; 76860

(6) Developing and implementing a program for the inspection 76861
of solid wastes generated outside the boundaries of this state 76862
that are disposed of at solid waste facilities included in the 76863
district's approved solid waste management plan or amended plan; 76864

(7) Providing financial assistance to boards of health within 76865
the district for the enforcement of section 3734.03 of the Revised 76866
Code or to local law enforcement agencies having jurisdiction 76867
within the district for enforcing anti-littering laws and 76868
ordinances; 76869

(8) Providing financial assistance to boards of health of 76870
health districts within the district that are on the approved list 76871
under section 3734.08 of the Revised Code to defray the costs to 76872
the health districts for the participation of their employees 76873
responsible for enforcement of the solid waste provisions of this 76874
chapter and rules adopted and orders and terms and conditions of 76875
permits, licenses, and variances issued under those provisions in 76876

the training and certification program as required by rules 76877
adopted under division (L) of section 3734.02 of the Revised Code; 76878

(9) Providing financial assistance to individual municipal 76879
corporations and townships within the district to defray their 76880
added costs of maintaining roads and other public facilities and 76881
of providing emergency and other public services resulting from 76882
the location and operation within their boundaries of a 76883
composting, energy or resource recovery, incineration, or 76884
recycling facility that either is owned by the district or is 76885
furnishing solid waste management facility or recycling services 76886
to the district pursuant to a contract or agreement with the board 76887
of county commissioners or directors of the district; 76888

(10) Payment of any expenses that are agreed to, awarded, or 76889
ordered to be paid under section 3734.35 of the Revised Code and 76890
of any administrative costs incurred pursuant to that section. In 76891
the case of a joint solid waste management district, if the board 76892
of county commissioners of one of the counties in the district is 76893
negotiating on behalf of affected communities, as defined in that 76894
section, in that county, the board shall obtain the approval of 76895
the board of directors of the district in order to expend moneys 76896
for administrative costs incurred. 76897

Prior to the approval of the district's solid waste 76898
management plan under section 3734.55 of the Revised Code, moneys 76899
in the special fund of the district arising from the fees shall be 76900
expended for those purposes in the manner prescribed by the solid 76901
waste management policy committee by resolution. 76902

Notwithstanding division (G)(6) of this section as it existed 76903
prior to October 29, 1993, or any provision in a district's solid 76904
waste management plan prepared in accordance with division 76905
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 76906
prior to that date, any moneys arising from the fees levied under 76907
division (B)(3) of this section prior to January 1, 1994, may be 76908

expended for any of the purposes authorized in divisions (G)(1) to 76909
(10) of this section. 76910

(H) The director shall adopt rules in accordance with Chapter 76911
119. of the Revised Code prescribing procedures for collecting and 76912
forwarding the fees levied under divisions (B) and (C) of this 76913
section to the boards of county commissioners or directors of 76914
county or joint solid waste management districts and to the 76915
treasurers or other officers of municipal corporations and the 76916
fiscal officers of townships. The rules also shall prescribe the 76917
dates for forwarding the fees to the boards and officials and may 76918
prescribe any other requirements the director considers necessary 76919
or appropriate to implement and administer divisions (A), (B), and 76920
(C) of this section. 76921

Sec. 3734.577. Notwithstanding any section of the Revised 76922
Code to the contrary, no solid waste management district shall 76923
exempt a public sector commercial licensed hauler from a fee that 76924
is charged to private sector commercial licensed haulers by the 76925
solid waste management district. 76926

Sec. 3734.85. (A) On and after the effective date of the 76927
rules adopted under sections 3734.70, 3734.71, 3734.72, and 76928
3734.73 of the Revised Code, the director of environmental 76929
protection may take action under this section to abate 76930
accumulations of scrap tires. If the director determines that an 76931
accumulation of scrap tires constitutes a danger to the public 76932
health or safety or to the environment, the director shall issue 76933
an order under section 3734.13 of the Revised Code to the person 76934
responsible for the accumulation of scrap tires directing that 76935
person, within one hundred twenty days after the issuance of the 76936
order, to remove the accumulation of scrap tires from the premises 76937
on which it is located and transport the tires to a scrap tire 76938
storage, monocell, monofill, or recovery facility licensed under 76939

section 3734.81 of the Revised Code, to such a facility in another 76940
state operating in compliance with the laws of the state in which 76941
it is located, or to any other solid waste disposal facility in 76942
another state that is operating in compliance with the laws of 76943
that state. If the person responsible for causing the accumulation 76944
of scrap tires is a person different from the owner of the land on 76945
which the accumulation is located, the director may issue such an 76946
order to the landowner. 76947

If the director is unable to ascertain immediately the 76948
identity of the person responsible for causing the accumulation of 76949
scrap tires, the director shall examine the records of the 76950
applicable board of health and law enforcement agencies to 76951
ascertain that person's identity. Before initiating any 76952
enforcement or removal actions under this division against the 76953
owner of the land on which the accumulation is located, the 76954
director shall initiate any such actions against the person that 76955
the director has identified as responsible for causing the 76956
accumulation of scrap tires. Failure of the director to make 76957
diligent efforts to ascertain the identity of the person 76958
responsible for causing the accumulation of scrap tires or to 76959
initiate an action against the person responsible for causing the 76960
accumulation shall not constitute an affirmative defense by a 76961
landowner to an enforcement action initiated by the director under 76962
this division requiring immediate removal of any accumulation of 76963
scrap tires. 76964

Upon the written request of the recipient of an order issued 76965
under this division, the director may extend the time for 76966
compliance with the order if the request demonstrates that the 76967
recipient has acted in good faith to comply with the order. If the 76968
recipient of an order issued under this division fails to comply 76969
with the order within one hundred twenty days after the issuance 76970
of the order or, if the time for compliance with the order was so 76971

extended, within that time, the director shall take such actions 76972
as the director considers reasonable and necessary to remove and 76973
properly manage the scrap tires located on the land named in the 76974
order. The director, through employees of the environmental 76975
protection agency or a contractor, may enter upon the land on 76976
which the accumulation of scrap tires is located and remove and 76977
transport them to a scrap tire recovery facility for processing, 76978
to a scrap tire storage facility for storage, or to a scrap tire 76979
monocell or monofill facility for storage or disposal. 76980

The director shall enter into contracts ~~with the owners or~~ 76981
~~operators of scrap tire storage, monocell, monofill, or recovery~~ 76982
~~facilities~~ for the storage, disposal, or processing of scrap tires 76983
removed through removal operations conducted under this section. 76984
~~In doing so, the director shall give preference to scrap tire~~ 76985
~~recovery facilities.~~ 76986

If a person to whom a removal order is issued under this 76987
division fails to comply with the order and if the director 76988
performs a removal action under this section, the person to whom 76989
the removal order is issued is liable to the director for the 76990
costs incurred by the director for conducting the removal 76991
operation, storage at a scrap tire storage facility, storage or 76992
disposal at a scrap tire monocell or monofill facility, or 76993
processing of the scrap tires so removed, the transportation of 76994
the scrap tires from the site of the accumulation to the scrap 76995
tire storage, monocell, monofill, or recovery facility where the 76996
scrap tires were stored, disposed of, or processed, and the 76997
administrative and legal expenses incurred by the director in 76998
connection with the removal operation. The director shall keep an 76999
itemized record of those costs. Upon completion of the actions for 77000
which the costs were incurred, the director shall record the costs 77001
at the office of the county recorder of the county in which the 77002
accumulation of scrap tires was located. The costs so recorded 77003

constitute a lien on the property on which the accumulation of 77004
scrap tires was located until discharged. Upon the written request 77005
of the director, the attorney general shall bring a civil action 77006
against the person responsible for the accumulation of the scrap 77007
tires that were the subject of the removal operation to recover 77008
the costs for which the person is liable under this division. Any 77009
money so received or recovered shall be credited to the scrap tire 77010
management fund created in section 3734.82 of the Revised Code. 77011

If, in a civil action brought under this division, an owner 77012
of real property is ordered to pay to the director the costs of a 77013
removal action that removed an accumulation of scrap tires from 77014
the person's land or if a lien is placed on the person's land for 77015
the costs of such a removal action, and, in either case, if the 77016
landowner was not the person responsible for causing the 77017
accumulation of scrap tires so removed, the landowner may bring a 77018
civil action against the person who was responsible for causing 77019
the accumulation to recover the amount of the removal costs that 77020
the court ordered the landowner to pay to the director or the 77021
amount of the removal costs certified to the county recorder as a 77022
lien on the landowner's property, whichever is applicable. If the 77023
landowner prevails in the civil action against the person who was 77024
responsible for causing the accumulation of scrap tires, the 77025
court, as it considers appropriate, may award to the landowner the 77026
reasonable attorney's fees incurred by the landowner for bringing 77027
the action, court costs, and other reasonable expenses incurred by 77028
the landowner in connection with the civil action. A landowner 77029
shall bring such a civil action within two years after making the 77030
final payment of the removal costs to the director pursuant to the 77031
judgment rendered against the landowner in the civil action 77032
brought under this division upon the director's request or within 77033
two years after the director certified the costs of the removal 77034
action to the county recorder, as appropriate. A person who, at 77035
the time that a removal action was conducted under this division, 77036

owned the land on which the removal action was performed may bring 77037
an action under this division to recover the costs of the removal 77038
action from the person responsible for causing the accumulation of 77039
scrap tires so removed regardless of whether the person owns the 77040
land at the time of bringing the action. 77041

Subject to the limitations set forth in division (G) of 77042
section 3734.82 of the Revised Code, the director may use moneys 77043
in the scrap tire management fund for conducting removal actions 77044
under this division. Any moneys recovered under this division 77045
shall be credited to the scrap tire management fund. 77046

(B) The director shall initiate enforcement and removal 77047
actions under division (A) of this section in accordance with the 77048
following descending listing of priorities: 77049

(1) Accumulations of scrap tires that the director finds 77050
constitute a fire hazard or threat to public health; 77051

(2) Accumulations of scrap tires determined by the director 77052
to contain more than one million scrap tires; 77053

(3) Accumulations of scrap tires in densely populated areas; 77054

(4) Other accumulations of scrap tires that the director or 77055
board of health of the health district in which the accumulation 77056
is located determines constitute a public nuisance; 77057

(5) Any other accumulations of scrap tires present on 77058
premises operating without a valid license issued under section 77059
3734.05 or 3734.81 of the Revised Code. 77060

(C) The director shall not take enforcement and removal 77061
actions under division (A) of this section against the owner or 77062
operator of, or the owner of the land on which is located, any of 77063
the following: 77064

(1) A premises where not more than one hundred scrap tires 77065
are present at any time; 77066

- (2) The premises of a business engaging in the sale of tires at retail that meets either of the following criteria: 77067
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- (a) Not more than one thousand scrap tires are present on the premises at any time in an unsecured, uncovered outdoor location. 77069
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- (b) Any number of scrap tires are secured in a building or a covered, enclosed container, trailer, or installation. 77071
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- (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; 77073
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- (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; 77077
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- (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; 77081
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- (6) A premises where not more than two hundred fifty scrap tires are stored or kept for agricultural use; 77085
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- (7) A construction site where scrap tires are stored for use or used in road resurfacing or the construction of embankments; 77087
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- (8) A scrap tire collection, storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; 77089
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- (9) A solid waste incineration or energy recovery facility that is subject to regulation under this chapter and that burns scrap tires; 77092
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- (10) A premises where scrap tires are beneficially used and for which the notice required by rules adopted under section 77095
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3734.84 of the Revised Code has been given; 77097

(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. 77098
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(D) Nothing in this section restricts any right any person may have under statute or common law to enforce or seek enforcement of any law applicable to the management of scrap tires, abate a nuisance, or seek any other appropriate relief. 77102
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(E) An owner of real property upon which there is located an accumulation of not more than two thousand scrap tires is not liable under division (A) of this section for the cost of the removal of the scrap tires, and no lien shall attach to the property under this section, if all of the following conditions are met: 77106
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(1) The tires were placed on the property after the owner acquired title to the property, or the tires were placed on the property before the owner acquired title to the property and the owner acquired title to the property by bequest or devise. 77112
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(2) The owner of the property did not have knowledge that the tires were being placed on the property, or the owner posted on the property signs prohibiting dumping or took other action to prevent the placing of tires on the property. 77116
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(3) The owner of the property did not participate in or consent to the placing of the tires on the property. 77120
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(4) The owner of the property received no financial benefit from the placing of the tires on the property or otherwise having the tires on the property. 77122
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(5) Title to the property was not transferred to the owner for the purpose of evading liability under division (A) of this 77125
77126

section. 77127

(6) The person responsible for placing the tires on the 77128
property, in doing so, was not acting as an agent for the owner of 77129
the property. 77130

Sec. 3734.901. (A)(1) For the purpose of providing revenue to 77131
defray the cost of administering and enforcing the scrap tire 77132
provisions of this chapter, rules adopted under those provisions, 77133
and terms and conditions of orders, variances, and licenses issued 77134
under those provisions; to abate accumulations of scrap tires; to 77135
make grants supporting market development activities for scrap 77136
tires and synthetic rubber from tire manufacturing processes and 77137
tire recycling processes and to support scrap tire amnesty and 77138
cleanup events; to make loans to promote the recycling or recovery 77139
of energy from scrap tires; and to defray the costs of 77140
administering and enforcing sections 3734.90 to 3734.9014 of the 77141
Revised Code, a fee of fifty cents per tire is hereby levied on 77142
the sale of tires. The proceeds of the fee shall be deposited in 77143
the state treasury to the credit of the scrap tire management fund 77144
created in section 3734.82 of the Revised Code. The fee is levied 77145
from the first day of the calendar month that begins next after 77146
thirty days from October 29, 1993, through June 30, ~~2011~~ 2013. 77147

(2) Beginning on ~~September 5, 2001~~ July 1, 2011, and ending 77148
on June 30, ~~2011~~ 2013, there is hereby levied an additional fee of 77149
fifty cents per tire on the sale of tires the proceeds of which 77150
shall be deposited in the state treasury to the credit of the 77151
~~scrap tire management fund and be used exclusively for the~~ 77152
~~purposes specified in division (C)(3) of that section until July~~ 77153
~~1, 2010, whereupon the proceeds shall be deposited in the state~~ 77154
~~treasury to the credit of the~~ soil and water conservation district 77155
assistance fund created in section 1515.14 of the Revised Code. 77156

(B) Only one sale of the same article shall be used in 77157

computing the amount of the fee due. 77158

Sec. 3735.36. When a metropolitan housing authority has 77159
acquired the property necessary for any project, it shall proceed 77160
to make plans and specifications for carrying out such project, 77161
and shall advertise for bids for all work ~~which~~ that it desires to 77162
have done by contract, such advertisements to be published as 77163
provided in section 7.16 of the Revised Code or once a week for 77164
two consecutive weeks in a newspaper of general circulation in the 77165
political subdivision in which the project is to be developed. The 77166
contract shall be awarded to the lowest and best bidder. 77167

Sec. 3735.66. The legislative authorities of municipal 77168
corporations and counties may survey the housing within their 77169
jurisdictions and, after the survey, may adopt resolutions 77170
describing the boundaries of community reinvestment areas which 77171
contain the conditions required for the finding under division (B) 77172
of section 3735.65 of the Revised Code. The findings resulting 77173
from the survey shall be incorporated in the resolution describing 77174
the boundaries of an area. The legislative authority may stipulate 77175
in the resolution that only new structures or remodeling 77176
classified as to use as commercial, industrial, or residential, or 77177
some combination thereof, and otherwise satisfying the 77178
requirements of section 3735.67 of the Revised Code are eligible 77179
for exemption from taxation under that section. If the resolution 77180
does not include such a stipulation, all new structures and 77181
remodeling satisfying the requirements of section 3735.67 of the 77182
Revised Code are eligible for exemption from taxation regardless 77183
of classification. Whether or not the resolution includes such a 77184
stipulation, the classification of the structures or remodeling 77185
eligible for exemption in the area shall at all times be 77186
consistent with zoning restrictions applicable to the area. For 77187
the purposes of sections 3735.65 to 3735.70 of the Revised Code, 77188

whether a structure or remodeling composed of multiple units is 77189
classified as commercial or residential shall be determined by 77190
resolution or ordinance of the legislative authority or, in the 77191
absence of such a determination, by the classification of the use 77192
of the structure or remodeling under the applicable zoning 77193
regulations. 77194

If construction or remodeling classified as residential is 77195
eligible for exemption from taxation, the resolution shall specify 77196
a percentage, not to exceed one hundred per cent, of the assessed 77197
valuation of such property to be exempted. The percentage 77198
specified shall apply to all residential construction or 77199
remodeling for which exemption is granted. 77200

The resolution adopted pursuant to this section shall be 77201
published in a newspaper of general circulation in the municipal 77202
corporation, if the resolution is adopted by the legislative 77203
authority of a municipal corporation, or in a newspaper of general 77204
circulation in the county, if the resolution is adopted by the 77205
legislative authority of the county, once a week for two 77206
consecutive weeks or as provided in section 7.16 of the Revised 77207
Code, immediately following its adoption. 77208

Each legislative authority adopting a resolution pursuant to 77209
this section shall designate a housing officer. In addition, each 77210
such legislative authority, not later than fifteen days after the 77211
adoption of the resolution, shall petition the director of 77212
development for the director to confirm the findings described in 77213
the resolution. The petition shall be accompanied by a copy of the 77214
resolution and by a map of the community reinvestment area in 77215
sufficient detail to denote the specific boundaries of the area 77216
and to indicate zoning restrictions applicable to the area. The 77217
director shall determine whether the findings contained in the 77218
resolution are valid, and whether the classification of structures 77219
or remodeling eligible for exemption under the resolution is 77220

consistent with zoning restrictions applicable to the area as 77221
indicated on the map. Within thirty days of receiving the 77222
petition, the director shall forward the director's determination 77223
to the legislative authority. The legislative authority or housing 77224
officer shall not grant any exemption from taxation under section 77225
3735.67 of the Revised Code until the director forwards the 77226
director's determination to the legislative authority. The 77227
director shall assign to each community reinvestment area a unique 77228
designation by which the area shall be identified for purposes of 77229
sections 3735.65 to 3735.70 of the Revised Code. 77230

If zoning restrictions in any part of a community 77231
reinvestment area are changed at any time after the legislative 77232
authority petitions the director under this section, the 77233
legislative authority shall notify the director and shall submit a 77234
map of the area indicating the new zoning restrictions in the 77235
area. 77236

Sec. 3737.73. (A) No principal or person in charge of a 77237
public or private school or educational institution having an 77238
average daily attendance of twenty or more pupils, and no person 77239
in charge of any children's home or orphanage housing twenty or 77240
more minor persons, shall willfully neglect to instruct and train 77241
such children by means of drills or rapid dismissals, so that such 77242
children in a sudden emergency may leave the building in the 77243
shortest possible time without confusion. The principal or person 77244
in charge of a school or educational institution shall conduct 77245
drills or rapid dismissals at least nine times during the school 77246
year, which shall be at the times and frequency prescribed in 77247
rules adopted by the fire marshal. However, no drill or rapid 77248
dismissal under this division need be conducted in any month that 77249
a school safety drill required under division (D) of this section 77250
is conducted as long as a total of nine drills or rapid dismissals 77251
under this division are conducted in the school year. The 77252

principal or person in charge of a children's home or orphanage 77253
shall conduct drills or rapid dismissals at least once each month 77254
while the home is in operation. In the case of schools, no 77255
principal or person in charge of a school shall willfully neglect 77256
to keep the doors and exits of such building unlocked during 77257
school hours. The fire marshal may order the immediate 77258
installation of necessary fire gongs or signals in such schools, 77259
institutions, or children's homes and enforce this division and 77260
divisions (B) and (C)(3) of this section. 77261

(B) In conjunction with the drills or rapid dismissals 77262
required by division (A) of this section, principals or persons in 77263
charge of public or private primary and secondary schools, or 77264
educational institutions, shall instruct pupils in safety 77265
precautions to be taken in case of a tornado alert or warning. 77266
Such principals or persons in charge of such schools or 77267
institutions shall designate, in accordance with standards 77268
prescribed by the fire marshal, appropriate locations to be used 77269
to shelter pupils in case of a tornado, tornado alert, or warning. 77270

(C)(1) The fire marshal or the fire marshal's designee shall 77271
annually inspect each school, institution, home, or orphanage 77272
subject to division (A) of this section to determine compliance 77273
with that division, and each school or institution subject to 77274
division (B) of this section to ascertain whether the locations 77275
comply with the standards prescribed under that division. Nothing 77276
in this section shall require a school or institution to construct 77277
or improve a facility or location for use as a shelter area. 77278

(2) The fire marshal or the fire marshal's designee shall 77279
issue a warning to any person found in violation of division (A) 77280
or (B) of this section. The warning shall indicate the specific 77281
violation and a date by which such violation shall be corrected. 77282

(3) No person shall fail to correct violations by the date 77283
indicated on a warning issued under division (C)(2) of this 77284

section. 77285

(D)(1) On or before April 1, 2007, and on or before each 77286
first day of December thereafter, the principal or person in 77287
charge of each public or private school or educational institution 77288
shall conduct a school safety drill to provide pupils with 77289
instruction in the procedures to follow in situations where pupils 77290
must be secured in the school building, such as a threat to the 77291
school involving an act of terrorism; a person possessing a deadly 77292
weapon or dangerous ordnance, as defined in section 2923.11 of the 77293
Revised Code, on school property; or other act of violence. 77294

(2)(a) The principal or person in charge of each public or 77295
private school or educational institution shall provide to the 77296
police chief or other similar chief law enforcement officer of the 77297
municipal corporation, township, or township or joint police 77298
district in which the school or institution is located, or, in 77299
absence of any such person, the county sheriff of the county in 77300
which the school or institution is located advance written notice 77301
of each school safety drill required under division (D)(1) of this 77302
section and shall keep a written record of the date and time of 77303
each drill conducted. The advance notice shall be provided not 77304
later than seventy-two hours prior to the date the drill will be 77305
conducted and shall include the date and time the drill will be 77306
conducted and the address of the school or educational 77307
institution. The notice shall be provided by mail, facsimile, or 77308
electronic submission. 77309

(b) Not later than April 5, 2007, and not later than the 77310
fifth day of December each year thereafter, the principal or 77311
person in charge of each public or private school or educational 77312
institution shall provide written certification by mail of the 77313
date and time each school safety drill required under division 77314
(D)(1) of this section was conducted to the police chief or other 77315
similar chief law enforcement officer of the municipal 77316

corporation, township, or township or joint police district in 77317
which the school or institution is located, or, in the absence of 77318
any such person, the county sheriff of the county in which the 77319
school or institution is located. If such certification is not 77320
provided, the principal or person in charge of the school or 77321
institution shall be considered to have failed to conduct the 77322
drill and shall be subject to division (D)(4) of this section. 77323

(3) The principal or person in charge of each public or 77324
private school or educational institution shall hold annual 77325
training sessions for employees of the school or institution 77326
regarding the conduct of school safety drills. 77327

(4) The police chief or other similar chief law enforcement 77328
officer of a municipal corporation, township, or township or joint 77329
police district, or, in the absence of any such person, the county 77330
sheriff shall issue a warning to any person found in violation of 77331
division (D)(1) of this section. Each warning issued for a 77332
violation of division (D)(1) of this section shall require the 77333
principal or person in charge of the school or institution to 77334
correct the violation by conducting the school safety drill not 77335
later than the thirtieth day after the date the warning is issued. 77336
The violation shall not be considered corrected unless, not later 77337
than forty days after the date the warning is issued, the 77338
principal or person in charge of the school or institution 77339
provides written certification of the date and time the drill was 77340
conducted to the police chief or other similar chief law 77341
enforcement officer or county sheriff who issued the warning. 77342

(5) No person shall fail to correct violations by the date 77343
indicated on a warning issued under division (D)(4) of this 77344
section. 77345

Sec. 3737.83. The fire marshal shall, as part of the state 77346
fire code, adopt rules to: 77347

(A) Establish minimum standards of performance for fire protection equipment and fire fighting equipment; 77348
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(B) Establish minimum standards of training, fix minimum qualifications, and require certificates for all persons who engage in the business for profit of installing, testing, repairing, or maintaining fire protection equipment; 77350
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(C) Provide for the issuance of certificates required under division (B) of this section and establish the fees to be charged for such certificates. A certificate shall be granted, renewed, or revoked according to rules the fire marshal shall adopt. 77354
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(D) Establish minimum standards of flammability for consumer goods in any case where the federal government or any department or agency thereof has established, or may from time to time establish standards of flammability for consumer goods. The standards established by the fire marshal shall be identical to the minimum federal standards. 77358
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In any case where the federal government or any department or agency thereof, establishes standards of flammability for consumer goods subsequent to the adoption of a flammability standard by the fire marshal, standards previously adopted by the fire marshal shall not continue in effect to the extent such standards are not identical to the minimum federal standards. 77364
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With respect to the adoption of minimum standards of flammability, this division shall supersede any authority granted a political subdivision by any other section of the Revised Code. 77370
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(E) Establish minimum standards pursuant to section 5104.05 of the Revised Code for fire prevention and fire safety in child day-care centers and in type A family day-care homes, as defined in section 5104.01 of the Revised Code. 77373
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(F) Establish minimum standards for fire prevention and safety an adult group home seeking licensure as an adult care 77377
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facility must meet under section ~~3722.02~~ 5119.71 of the Revised 77379
Code. The fire marshal shall adopt the rules under this division 77380
in consultation with the directors of mental health and aging and 77381
interested parties designated by the directors of mental health 77382
and aging. 77383

Sec. 3737.841. As used in this section and section 3737.842 77384
of the Revised Code: 77385

(A) "Public occupancy" means all of the following: 77386

(1) Any state correctional institution as defined in section 77387
2967.01 of the Revised Code and any county, multicounty, 77388
municipal, or municipal-county jail or workhouse; 77389

(2) Any hospital as defined in section 3727.01 of the Revised 77390
Code, any hospital licensed by the department of mental health 77391
under section 5119.20 of the Revised Code, and any institution, 77392
hospital, or other place established, controlled, or supervised by 77393
the department of mental health under Chapter 5119. of the Revised 77394
Code; 77395

(3) Any nursing home, residential care facility, or home for 77396
the aging as defined in section 3721.01 of the Revised Code and 77397
any adult care facility as defined in section ~~3722.01~~ 5119.70 of 77398
the Revised Code; 77399

(4) Any child day-care center and any type A family day-care 77400
home as defined in section 5104.01 of the Revised Code; 77401

(5) Any public auditorium or stadium; 77402

(6) Public assembly areas of hotels and motels containing 77403
more than ten articles of seating furniture. 77404

(B) "Sell" includes sell, offer or expose for sale, barter, 77405
trade, deliver, give away, rent, consign, lease, possess for sale, 77406
or dispose of in any other commercial manner. 77407

(C) Except as provided in division (D) of this section, 77408
"seating furniture" means any article of furniture, including 77409
children's furniture, that can be used as a support for an 77410
individual, or ~~his~~ an individual's limbs or feet, when sitting or 77411
resting in an upright or reclining position and that either: 77412

(1) Is made with loose or attached cushions or pillows; 77413

(2) Is stuffed or filled in whole or in part with any filling 77414
material; 77415

(3) Is or can be stuffed or filled in whole or in part with 77416
any substance or material, concealed by fabric or any other 77417
covering. 77418

"Seating furniture" includes the cushions or pillows 77419
belonging to or forming a part of the furniture, the structural 77420
unit, and the filling material and its container or covering. 77421

(D) "Seating furniture" does not include, except if intended 77422
for use by children or in facilities designed for the care or 77423
treatment of humans, any of the following: 77424

(1) Cushions or pads intended solely for outdoor use; 77425

(2) Any article with a smooth surface that contains no more 77426
than one-half inch of filling material, if that article does not 77427
have an upholstered horizontal surface meeting an upholstered 77428
vertical surface; 77429

(3) Any article manufactured solely for recreational use or 77430
physical fitness purposes, including weight-lifting benches, 77431
gymnasium mats or pads, and sidehorses. 77432

(E) "Filling material" means cotton, wool, kapok, feathers, 77433
down, hair, liquid, or any other natural or ~~manmade~~ artificial 77434
material or substance that is used or can be used as stuffing in 77435
seating furniture. 77436

Sec. 3737.87. As used in sections 3737.87 to 3737.98 of the Revised Code:

(A) "Accidental release" means any sudden or nonsudden release of petroleum that was neither expected nor intended by the owner or operator of the applicable underground storage tank system and that results in the need for corrective action or compensation for bodily injury or property damage.

(B) "Corrective action" means any action necessary to protect human health and the environment in the event of a release of petroleum into the environment, including, without limitation, any action necessary to monitor, assess, and evaluate the release. In the instance of a suspected release, ~~the term~~ "corrective action" includes, without limitation, an investigation to confirm or disprove the occurrence of the release. In the instance of a confirmed release, ~~the term~~ "corrective action" includes, without limitation, the initial corrective action taken under section 3737.88 or 3737.882 of the Revised Code and rules adopted or orders issued under those sections and any action taken consistent with a remedial action to clean up contaminated ground water, surface water, soils, and subsurface material and to address the residual effects of a release after the initial corrective action is taken.

(C) "Eligible lending institution" means a financial institution that is eligible to make commercial loans, is a public depository of state funds under section 135.03 of the Revised Code, and agrees to participate in the petroleum underground storage tank linked deposit program provided for in sections 3737.95 to 3737.98 of the Revised Code.

(D) "Eligible owner" means any person that owns six or fewer petroleum underground storage tanks comprising a petroleum underground storage tank or underground storage tank system.

(E) "Installer" means a person who supervises the 77468
installation of, performance of major repairs on site to, 77469
abandonment of, or removal of underground storage tank systems. 77470

(F) "Major repair" means the restoration of a tank or an 77471
underground storage tank system component that has caused a 77472
release of a product from the underground storage tank system, the 77473
upgrading of a tank or an underground storage tank system 77474
component, or the modification of a tank or an underground storage 77475
tank system component. "Major repair" does not include routine 77476
maintenance for normal operational upkeep to prevent an 77477
underground storage tank system from releasing a product. 77478

(G) "Operator" means the person in daily control of, or 77479
having responsibility for the daily operation of, an underground 77480
storage tank system. 77481

(H) "Owner" means: 77482

(1) In the instance of an underground storage tank system in 77483
use on November 8, 1984, or brought into use after that date, the 77484
person who owns the underground storage tank system; 77485

(2) In the instance of an underground storage tank system in 77486
use before November 8, 1984, that was no longer in use on that 77487
date, the person who owned the underground storage tank system 77488
immediately before the discontinuation of its use. 77489

~~The term~~ "Owner" includes any person who holds, or, in the 77490
instance of an underground storage tank system in use before 77491
November 8, 1984, but no longer in use on that date, any person 77492
who held immediately before the discontinuation of its use, a 77493
legal, equitable, or possessory interest of any kind in an 77494
underground storage tank system or in the property on which the 77495
underground storage tank system is located, including, without 77496
limitation, a trust, vendor, vendee, lessor, or lessee. ~~The term~~ 77497
"Owner" does not include any person who, without participating in 77498

the management of an underground storage tank system and without 77499
otherwise being engaged in petroleum production, refining, or 77500
marketing, holds indicia of ownership in an underground storage 77501
tank system primarily to protect the person's security interest in 77502
it. 77503

(I) "Person," in addition to the meaning in section 3737.01 77504
of the Revised Code, means the United States and any department, 77505
agency, or instrumentality thereof. 77506

(J) "Petroleum" means petroleum, including crude oil or any 77507
fraction thereof, that is a liquid at the temperature of sixty 77508
degrees Fahrenheit and the pressure of fourteen and seven-tenths 77509
pounds per square inch absolute. ~~The term~~ "Petroleum" includes, 77510
without limitation, motor fuels, jet fuels, distillate fuel oils, 77511
residual fuel oils, lubricants, petroleum solvents, and used oils. 77512

(K) "Petroleum underground storage tank linked deposit" means 77513
a certificate of deposit placed by the treasurer of state with an 77514
eligible lending institution pursuant to sections 3737.95 to 77515
3737.98 of the Revised Code. 77516

(L) "Regulated substance" means petroleum or any substance 77517
identified or listed as a hazardous substance in rules adopted 77518
under division (D) of section 3737.88 of the Revised Code. 77519

(M) "Release" means any spilling, leaking, emitting, 77520
discharging, escaping, leaching, or disposing of from an 77521
underground storage tank system into ground or surface water or 77522
subsurface soils or otherwise into the environment. 77523

(N) Notwithstanding division (F) of section 3737.01 of the 77524
Revised Code, "responsible person" means the person who is the 77525
owner or operator of an underground storage tank system. 77526

(O) "Tank" means a stationary device designed to contain an 77527
accumulation of regulated substances that is constructed of 77528
~~manmade~~ manufactured materials. 77529

(P) "Underground storage tank" means one or any combination of tanks, including the underground pipes connected thereto, that are used to contain an accumulation of regulated substances the volume of which, including the volume of the underground pipes connected thereto, is ten per cent or more beneath the surface of the ground.

~~The term~~ "Underground storage tank" does not include any of the following or any pipes connected to any of the following:

(1) Pipeline facilities, including gathering lines, regulated under the "Natural Gas Pipeline Safety Act of 1968," 82 Stat. 720, 49 U.S.C.A. 1671, as amended, or the "Hazardous Liquid Pipeline Safety Act of 1979," 93 Stat. 1003, 49 U.S.C.A. 2001, as amended;

(2) Farm or residential tanks of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes;

(3) Tanks used for storing heating fuel for consumptive use on the premises where stored;

(4) Surface impoundments, pits, ponds, or lagoons;

(5) Storm or waste water collection systems;

(6) Flow-through process tanks;

(7) Storage tanks located in underground areas, including, without limitation, basements, cellars, mine workings, drifts, shafts, or tunnels, when the tanks are located on or above the surface of the floor;

(8) Septic tanks;

(9) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations.

(Q) "Underground storage tank system" means an underground storage tank and the connected underground piping, underground ancillary equipment, and containment system, if any.

(R) "Revenues" means all fees, premiums, and charges paid by owners and operators of petroleum underground storage tanks to the petroleum underground storage tank release compensation board created in section 3737.90 of the Revised Code; proceeds received by the board from any insurance, condemnation, or guaranty; the proceeds of petroleum underground storage tank revenue bonds; and the income and profits from the investment of any such revenues.

(S) "Revenue bonds," unless the context indicates a different meaning or intent, means petroleum underground storage tank revenue bonds and petroleum underground storage tank revenue refunding bonds that are issued by the petroleum underground storage tank release compensation board pursuant to sections 3737.90 to 3737.948 of the Revised Code.

(T) "Class C release" means a release of petroleum occurring or identified from an underground storage tank system subject to sections 3737.87 to 3737.89 of the Revised Code for which the responsible person for the release is specifically determined by the fire marshal not to be a viable person capable of undertaking or completing the corrective actions required under those sections for the release. "Class C release" also includes any release designated as a "class C release" in accordance with rules adopted under section 3737.88 of the Revised Code.

Sec. 3737.88. (A)(1) The fire marshal shall have responsibility for implementation of the underground storage tank program and corrective action program for releases of petroleum from underground ~~petroleum~~ storage tanks established by the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended. To implement the ~~program~~ programs, the fire marshal may adopt, amend, and rescind such rules, conduct such inspections, require annual registration of underground storage tanks, issue such citations and orders to enforce those

rules, enter into environmental covenants in accordance with 77591
sections 5301.80 to 5301.92 of the Revised Code, and perform such 77592
other duties, as are consistent with those programs. The fire 77593
marshal, by rule, may delegate the authority to conduct 77594
inspections of underground storage tanks to certified fire safety 77595
inspectors. 77596

(2) In the place of any rules regarding release containment 77597
and release detection for underground storage tanks adopted under 77598
division (A)(1) of this section, the fire marshal, by rule, shall 77599
designate areas as being sensitive for the protection of human 77600
health and the environment and adopt alternative rules regarding 77601
release containment and release detection methods for new and 77602
upgraded underground storage tank systems located in those areas. 77603
In designating such areas, the fire marshal shall take into 77604
consideration such factors as soil conditions, hydrogeology, water 77605
use, and the location of public and private water supplies. Not 77606
later than July 11, 1990, the fire marshal shall file the rules 77607
required under this division with the secretary of state, director 77608
of the legislative service commission, and joint committee on 77609
agency rule review in accordance with divisions (B) and (H) of 77610
section 119.03 of the Revised Code. 77611

(3) Notwithstanding sections 3737.87 to 3737.89 of the 77612
Revised Code, a person who is not a responsible person may conduct 77613
a voluntary action in accordance with Chapter 3746. of the Revised 77614
Code and rules adopted under it for a class C release. The 77615
director of environmental protection, pursuant to section 3746.12 77616
of the Revised Code, may issue a covenant not to sue to any person 77617
who properly completes a voluntary action with respect to a class 77618
C release in accordance with Chapter 3746. of the Revised Code and 77619
rules adopted under it. 77620

(B) Before adopting any rule under this section or section 77621
3737.881 or 3737.882 of the Revised Code, the fire marshal shall 77622

file written notice of the proposed rule with the chairperson of 77623
the state fire commission, and, within sixty days after notice is 77624
filed, the commission may file responses to or comments on and may 77625
recommend alternative or supplementary rules to the fire marshal. 77626
At the end of the sixty-day period or upon the filing of 77627
responses, comments, or recommendations by the commission, the 77628
fire marshal may adopt the rule filed with the commission or any 77629
alternative or supplementary rule recommended by the commission. 77630

(C) The fire commission may recommend courses of action to be 77631
taken by the fire marshal in carrying out the fire marshal's 77632
duties under this section. The commission shall file its 77633
recommendations in the office of the fire marshal, and, within 77634
sixty days after the recommendations are filed, the fire marshal 77635
shall file with the chairperson of the commission comments on, and 77636
proposed action in response to, the recommendations. 77637

(D) For the purpose of sections 3737.87 to 3737.89 of the 77638
Revised Code, the fire marshal shall adopt, and may amend and 77639
rescind, rules identifying or listing hazardous substances. The 77640
rules shall be consistent with and equivalent in scope, coverage, 77641
and content to regulations identifying or listing hazardous 77642
substances adopted under the "Comprehensive Environmental 77643
Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 77644
42 U.S.C.A. 9602, as amended, except that the fire marshal shall 77645
not identify or list as a hazardous substance any hazardous waste 77646
identified or listed in rules adopted under division (A) of 77647
section 3734.12 of the Revised Code. 77648

(E) ~~Notwithstanding any provision of the laws of this state~~ 77649
~~to the contrary~~ Except as provided in division (A)(3) of this 77650
section, the fire marshal ~~has~~ shall have exclusive jurisdiction to 77651
regulate the storage, treatment, and disposal of petroleum 77652
contaminated soil generated from corrective actions undertaken in 77653
response to releases of petroleum from underground storage tank 77654

systems. The fire marshal may adopt, amend, or rescind such rules 77655
as the fire marshal considers to be necessary or appropriate to 77656
regulate the storage, treatment, or disposal of petroleum 77657
contaminated soil so generated. 77658

(F) The fire marshal shall adopt, amend, and rescind rules 77659
under sections 3737.88 to 3737.882 of the Revised Code in 77660
accordance with Chapter 119. of the Revised Code. 77661

Sec. 3743.06. In addition to conforming to the rules of the 77662
fire marshal adopted pursuant to section 3743.05 of the Revised 77663
Code, licensed manufacturers of fireworks shall operate their 77664
fireworks plants in accordance with the following: 77665

(A) Signs indicating that smoking is generally forbidden and 77666
trespassing is prohibited on the premises of a fireworks plant 77667
shall be posted on the premises in a manner determined by the fire 77668
marshal. 77669

(B) Reasonable precautions shall be taken to protect the 77670
premises of a fireworks plant from trespass, loss, theft, or 77671
destruction. Only persons employed by the manufacturer, authorized 77672
governmental personnel, and persons who have obtained permission 77673
from a member of the manufacturer's office to be on the premises, 77674
are to be allowed to enter and remain on the premises. 77675

(C) Smoking or the carrying of pipes, cigarettes, or cigars, 77676
matches, lighters, other flame-producing items, or open flame on, 77677
or the carrying of a concealed source of ignition into, the 77678
premises of a fireworks plant is prohibited, except that a 77679
manufacturer may permit smoking in specified lunchrooms or 77680
restrooms in buildings or other structures in which no 77681
manufacturing, handling, sales, or storage of fireworks takes 77682
place. "NO SMOKING" signs shall be posted on the premises as 77683
required by the fire marshal. 77684

(D) Fire and explosion prevention and other reasonable safety 77685
measures and precautions shall be implemented by a manufacturer. 77686

(E) Persons shall not be permitted to have in their 77687
possession or under their control, while they are on the premises 77688
of the fireworks plant, any intoxicating liquor, beer, or 77689
controlled substance, and they shall not be permitted to enter or 77690
remain on the premises if they are found to be under the influence 77691
of any intoxicating liquor, beer, or controlled substance. 77692

(F) A manufacturer shall conform to all building, safety, and 77693
zoning statutes, ordinances, rules, or other enactments that apply 77694
to the premises of its fireworks plant. 77695

(G) Each fireworks plant shall have at least one class 1 77696
magazine that is approved by the bureau of alcohol, tobacco, and 77697
firearms of the United States department of the treasury and that 77698
is otherwise in conformity with federal law. This division does 77699
not apply to fireworks plants existing on or before August 3, 77700
1931. 77701

(H) Awnings, tents, and canopies shall not be used as 77702
facilities for the sale or storage of fireworks. This division 77703
does not prohibit the use of an awning or canopy attached to a 77704
public access showroom for storing nonflammable shopping 77705
convenience items such as shopping carts or baskets or providing a 77706
shaded area for patrons waiting to enter the public sales area. 77707

(I) Fireworks may be stored in trailers if the trailers are 77708
properly enclosed, secured, and grounded and are separated from 77709
any structure to which the public is admitted by a distance that 77710
will, in the fire marshal's judgment, allow fire-fighting 77711
equipment to have full access to the structures on the licensed 77712
premises. Such trailers may be moved into closer proximity to any 77713
structure only to accept or discharge cargo for a period not to 77714
exceed forty-eight hours. Only two such trailers may be placed in 77715

such closer proximity at any one time. At no time may trailers be 77716
used for conducting sales of any class of fireworks, nor may 77717
members of the public have access to the trailers. 77718

Storage areas for fireworks that are in the same building 77719
where fireworks are displayed and sold to the public shall be 77720
separated from the areas to which the public has access by an 77721
appropriately rated fire wall. 77722

(J) A fire suppression system as defined in section 3781.108 77723
of the Revised Code may be turned off only for repair, drainage of 77724
the system to prevent damage by freezing during the period of 77725
time, approved by the fire marshal, that the facility is closed to 77726
all public access during winter months, or maintenance of the 77727
system. If any repair or maintenance is necessary during times 77728
when the facility is open for public access and business as 77729
approved by the fire marshal, the licensed manufacturer shall 77730
notify in advance the appropriate insurance company and fire chief 77731
or fire prevention officer regarding the nature of the maintenance 77732
or repair and the time when it will be performed. 77733

(K) If any fireworks item is removed from its original 77734
package or is manufactured with any fuse other than a safety fuse 77735
approved by the consumer product safety commission, then the item 77736
shall be covered completely by repackaging or bagging or it shall 77737
otherwise be covered so as to prevent ignition prior to sale. 77738

(L) A safety officer shall be present during regular business 77739
hours at a building open to the public during the period 77740
commencing fourteen days before, and ending two days after, each 77741
fourth day of July. The officer shall be highly visible, enforce 77742
this chapter and any applicable building codes to the extent the 77743
officer is authorized by law, and be one of the following: 77744

(1) A deputy sheriff; 77745

(2) A law enforcement officer of a municipal corporation, 77746

township, or township or joint ~~township~~ police district; 77747

(3) A private uniformed security guard registered under 77748
section 4749.06 of the Revised Code. 77749

(M) All doors of all buildings on the licensed premises shall 77750
swing outward. 77751

(N) All wholesale and commercial sales of fireworks shall be 77752
packaged, shipped, placarded, and transported in accordance with 77753
United States department of transportation regulations applicable 77754
to the transportation, and the offering for transportation, of 77755
hazardous materials. For purposes of this division, "wholesale and 77756
commercial sales" includes all sales for resale and any nonretail 77757
sale made in furtherance of a commercial enterprise. For purposes 77758
of enforcement of these regulations under section 4905.83 of the 77759
Revised Code, any sales transaction exceeding one thousand pounds 77760
shall be rebuttably presumed to be a wholesale or commercial sale. 77761

Sec. 3743.19. In addition to conforming to the rules of the 77762
fire marshal adopted pursuant to section 3743.18 of the Revised 77763
Code, licensed wholesalers of fireworks shall conduct their 77764
business operations in accordance with the following: 77765

(A) A wholesaler shall conduct its business operations from 77766
the location described in its application for licensure or in a 77767
notification submitted under division (B) of section 3743.17 of 77768
the Revised Code. 77769

(B) Signs indicating that smoking is generally forbidden and 77770
trespassing is prohibited on the premises of a wholesaler shall be 77771
posted on the premises as determined by the fire marshal. 77772

(C) Reasonable precautions shall be taken to protect the 77773
premises of a wholesaler from trespass, loss, theft, or 77774
destruction. 77775

(D) Smoking or the carrying of pipes, cigarettes, or cigars, 77776

matches, lighters, other flame-producing items, or open flame on, 77777
or the carrying of a concealed source of ignition into, the 77778
premises of a wholesaler is prohibited, except that a wholesaler 77779
may permit smoking in specified lunchrooms or restrooms in 77780
buildings or other structures in which no sales, handling, or 77781
storage of fireworks takes place. "NO SMOKING" signs shall be 77782
posted on the premises as required by the fire marshal. 77783

(E) Fire and explosion prevention and other reasonable safety 77784
measures and precautions shall be implemented by a wholesaler. 77785

(F) Persons shall not be permitted to have in their 77786
possession or under their control, while they are on the premises 77787
of a wholesaler, any intoxicating liquor, beer, or controlled 77788
substance, and they shall not be permitted to enter or remain on 77789
the premises if they are found to be under the influence of any 77790
intoxicating liquor, beer, or controlled substance. 77791

(G) A wholesaler shall conform to all building, safety, and 77792
zoning statutes, ordinances, rules, or other enactments that apply 77793
to its premises. 77794

(H) Each building used in the sale of fireworks shall be kept 77795
open to the public for at least four hours each day between the 77796
hours of eight a.m. and five p.m., five days of each week, every 77797
week of the year. Upon application from a licensed wholesaler, the 77798
fire marshal may waive any of the requirements of this division. 77799

(I) Awnings, tents, or canopies shall not be used as 77800
facilities for the storage or sale of fireworks. This division 77801
does not prohibit the use of an awning or canopy attached to a 77802
public access showroom for storing nonflammable shopping 77803
convenience items such as shopping carts or baskets or providing a 77804
shaded area for patrons waiting to enter the public sales area. 77805

(J) 1.4G fireworks may be stored in trailers if the trailers 77806
are properly enclosed, secured, and grounded and are separated 77807

from any structure to which the public is admitted by a distance 77808
that will, in the fire marshal's judgment, allow fire-fighting 77809
equipment to have full access to the structures on the licensed 77810
premises. Such trailers may be moved into closer proximity to any 77811
structure only to accept or discharge cargo for a period not to 77812
exceed forty-eight hours. Only two such trailers may be placed in 77813
such closer proximity at any one time. At no time may trailers be 77814
used for conducting sales of any class of fireworks nor may 77815
members of the public have access to the trailers. 77816

Storage areas for fireworks that are in the same building 77817
where fireworks are displayed and sold to the public shall be 77818
separated from the areas to which the public has access by an 77819
appropriately rated fire wall. If the licensee installs and 77820
properly maintains an early suppression fast response sprinkler 77821
system or equivalent fire suppression system as described in the 77822
fire code adopted by the fire marshal in accordance with section 77823
3737.82 of the Revised Code throughout the structure, a fire 77824
barrier wall may be substituted for a fire wall between the areas 77825
to which the public has access and the storage portions of the 77826
structure. 77827

(K) A fire suppression system as defined in section 3781.108 77828
of the Revised Code may be turned off only for repair, drainage of 77829
the system to prevent damage by freezing during the period of 77830
time, approved by the fire marshal under division (I) of this 77831
section, that the facility is closed to public access during 77832
winter months, or maintenance of the system. If any repair or 77833
maintenance is necessary during times when the facility is open 77834
for public access and business, the licensed wholesaler shall 77835
notify in advance the appropriate insurance company and fire chief 77836
or fire prevention officer regarding the nature of the maintenance 77837
or repair and the time when it will be performed. 77838

(L) If any fireworks item is removed from its original 77839

package or is manufactured with any fuse other than a fuse 77840
approved by the consumer product safety commission, then the item 77841
shall be covered completely by repackaging or bagging or it shall 77842
otherwise be covered so as to prevent ignition prior to sale. 77843

(M) A safety officer shall be present during regular business 77844
hours at a building open to the public during the period 77845
commencing fourteen days before, and ending two days after, each 77846
fourth day of July. The officer shall be highly visible, enforce 77847
this chapter and any applicable building codes to the extent the 77848
officer is authorized by law, and be one of the following: 77849

(1) A deputy sheriff; 77850

(2) A law enforcement officer of a municipal corporation, 77851
township, or township or joint ~~township~~ police district; 77852

(3) A private uniformed security guard registered under 77853
section 4749.06 of the Revised Code. 77854

(N) All doors of all buildings on the licensed premises shall 77855
swing outward. 77856

(O) All wholesale and commercial sales of fireworks shall be 77857
packaged, shipped, placarded, and transported in accordance with 77858
United States department of transportation regulations applicable 77859
to the transportation, and the offering for transportation, of 77860
hazardous materials. For purposes of this division, "wholesale and 77861
commercial sales" includes all sales for resale and any nonretail 77862
sale made in furtherance of a commercial enterprise. For purposes 77863
of enforcement of these regulations under section 4905.83 of the 77864
Revised Code, any sales transaction exceeding one thousand pounds 77865
shall be rebuttably presumed to be a wholesale or commercial sale. 77866

Sec. 3743.52. (A) The license of an exhibitor of fireworks is 77867
effective for one year from the date of its issuance by the fire 77868
marshal. If an exhibitor of fireworks wishes to continue as an 77869

exhibitor after its then effective license expires, it shall apply 77870
for a new license pursuant to section 3743.50 of the Revised Code. 77871
The fire marshal shall send a written notice of the expiration of 77872
its license to a licensed exhibitor at least two months before the 77873
expiration date. 77874

(B) The license of an exhibitor of fireworks authorizes the 77875
exhibitor to conduct public fireworks exhibitions in this state if 77876
it complies with sections 3743.50 to 3743.55 of the Revised Code 77877
and with the rules adopted by the fire marshal pursuant to section 77878
3743.53 of the Revised Code. 77879

The license is not transferable or assignable, and is subject 77880
to revocation as provided in section 3743.70 or division (D) of 77881
section 3743.99 of the Revised Code or pursuant to Chapter 119. of 77882
the Revised Code if the exhibitor fails to comply with sections 77883
3743.50 to 3743.55 of the Revised Code or the rules adopted by the 77884
fire marshal pursuant to section 3743.53 of the Revised Code. 77885

If the license of an exhibitor is revoked, the exhibitor 77886
shall cease conducting public fireworks exhibitions immediately. 77887
Subject to division (D) of section 3743.99 of the Revised Code, 77888
the exhibitor may not reapply for licensure as an exhibitor of 77889
fireworks until two years expire from the date of revocation. The 77890
fire marshal shall remove from the list of licensed exhibitors the 77891
exhibitor's name, and shall notify fire chiefs, fire prevention 77892
officers, and police chiefs or other similar chief law enforcement 77893
officers of municipal corporations, townships, or township or 77894
joint police districts in this state of the revocation. 77895

(C) Each licensed exhibitor of fireworks or a designee of the 77896
exhibitor, whose identity is provided to the fire marshal by the 77897
exhibitor, shall attend a continuing education program consisting 77898
of not less than six hours of instruction once every three years. 77899
The fire marshal shall develop the program, and the fire marshal 77900
or a person or public agency approved by the fire marshal shall 77901

conduct it. A licensed exhibitor or the exhibitor's designee who 77902
attends a program as required under this division, within one year 77903
after attending the program, and on an annual basis during the 77904
following two years, shall conduct in-service training for other 77905
employees of the licensee regarding the information obtained in 77906
the program. A licensed exhibitor shall provide the fire marshal 77907
with certified proof of full compliance with all applicable annual 77908
training requirements of the United States department of 77909
transportation and of the occupational safety and health 77910
administration. A licensed exhibitor shall provide the fire 77911
marshal with notice of the date, time, and place of all in-service 77912
training not less than thirty days prior to an in-service training 77913
event. An individual exhibitor who has no employees shall not 77914
fulfill continuing education requirements through a designee. 77915

Sec. 3743.53. (A) The fire marshal shall adopt rules in 77916
accordance with Chapter 119. of the Revised Code that establish 77917
qualifications that all applicants for licensure as an exhibitor 77918
of fireworks shall satisfy. These rules shall be designed to 77919
provide a reasonable degree of assurance that individuals 77920
conducting public fireworks exhibitions in this state are 77921
proficient in handling and discharging fireworks, are capable of 77922
handling the responsibilities associated with exhibitions as 77923
prescribed by rule of the fire marshal pursuant to divisions (B) 77924
and (E) of this section or as prescribed by sections 3743.50 to 77925
3743.55 of the Revised Code, and will conduct fireworks 77926
exhibitions in a manner that emphasizes the safety and security of 77927
the public. The rules shall be consistent with sections 3743.50 to 77928
3743.55 of the Revised Code and may include, in addition to other 77929
requirements prescribed by the fire marshal, a requirement that 77930
the applicant for licensure successfully complete a written 77931
examination or otherwise successfully demonstrate its proficiency 77932
in the handling and discharging of fireworks in a safe manner and 77933

its ability to handle the responsibilities associated with 77934
exhibitions. 77935

(B) The fire marshal shall adopt rules in accordance with 77936
Chapter 119. of the Revised Code that govern the nature and 77937
conduct of public fireworks exhibitions by licensed exhibitors of 77938
fireworks. These rules shall be designed to promote the safety and 77939
security of persons viewing a fireworks exhibition, to promote the 77940
safety of persons who, although not viewing an exhibition, could 77941
be affected by fireworks used at it, and to promote the safety and 77942
security of exhibitors and their assistants. 77943

The rules shall be consistent with sections 3743.50 to 77944
3743.55 of the Revised Code; except as otherwise provided in this 77945
section, shall be substantially equivalent to the most recent 77946
versions of chapters 1123, 1124, and 1126 of the most recent 77947
national fire protection association standards; and shall apply 77948
to, but not be limited to, the following subject matters: 77949

(1) The construction of shells used in a fireworks 77950
exhibition; 77951

(2) Except as the storage and securing of fireworks is 77952
addressed by the rules adopted under division (E) of this section, 77953
the storage, securing, and supervision of fireworks pending their 77954
use in, and during the course of, a fireworks exhibition, and 77955
inspections by exhibitors of fireworks to be used in an exhibition 77956
prior to their use. These rules shall regulate, among other 77957
relevant matters, the storage of fireworks in manners that will 77958
effectively eliminate or reduce the likelihood of the fireworks 77959
becoming wet or being exposed to flame, and appropriate distances 77960
between storage sites and the sites at which fireworks will be 77961
discharged. 77962

(3) The installation and nature of mortars used in a 77963
fireworks exhibition, and inspections by exhibitors of mortars 77964

prior to their use; 77965

(4) Minimum distances between storage sites, discharge sites, 77966
spectator viewing sites, parking areas, and potential landing 77967
areas of fireworks, and minimum distances between discharge sites, 77968
potential landing areas, and residential or other types of 77969
buildings or structures; 77970

(5) The nature of discharge sites and potential landing 77971
sites; 77972

(6) Fire protection, the use and location of monitors for 77973
crowd control, the use of fences and rope barriers for crowd 77974
control, illumination, smoking and the use of open flame, and 77975
posting of warning signs concerning smoking or the use of open 77976
flame in connection with fireworks exhibitions. These rules may 77977
provide some authority to local officials in determining adequate 77978
fire protection, and numbers and locations of monitors. 77979

(7) Procedures to be followed in the discharging of 77980
fireworks; 77981

(8) Weather and crowd-related conditions under which 77982
fireworks may and may not be discharged, including circumstances 77983
under which exhibitions should be postponed; 77984

(9) Inspections of premises following a fireworks exhibition 77985
for purposes of locating and disposing of defective or unexploded 77986
fireworks. Inspections shall be required immediately following an 77987
exhibition, and, if an exhibition is conducted at night, also at 77988
sunrise the following morning. 77989

(C) All mortars used in a fireworks exhibition that are 77990
greater than or equal to eight inches in diameter shall be 77991
equipped with electronic ignition equipment in accordance with 77992
chapter 1123 of the most recent edition of the national fire 77993
protection association standards. 77994

(D) Only persons who are employees of licensed exhibitors of fireworks and who are registered with the fire marshal under section 3743.56 of the Revised Code shall be permitted within the discharge perimeter of an exhibition.

(E)(1) The fire marshal shall adopt rules in accordance with Chapter 119. of the Revised Code and consistent with division (E)(3) of this section that establish both of the following:

(a) Uniform standards for the stability and securing of fireworks storage racks used at a fireworks exhibition;

(b) A detailed checklist that a fire chief or fire prevention officer, in consultation with a police chief or other similar chief law enforcement officer of a municipal corporation, township, or township or joint police district or with a designee of such a police chief or other similar chief law enforcement officer, shall complete, while conducting the inspection required under division (C) of section 3743.54 of the Revised Code at the premises at which a fireworks exhibition will take place, to ensure that the exhibition will comply with all applicable requirements of this chapter, and all applicable rules adopted under this chapter, that regulate the conduct of a fireworks exhibition.

(2) Each licensed exhibitor of fireworks shall comply with the rules that the fire marshal adopts under division (E)(1)(a) of this section.

(3) Prior to the fire marshal's adoption of the rules referred to in divisions (E)(1)(a) and (b) of this section, the director of commerce shall appoint a committee consisting of the fire marshal, three representatives of the fireworks industry, and three representatives of the fire service industry to assist the fire marshal in adopting those rules. The fire marshal shall adopt initial rules under those divisions by not later than May 1, 2001.

(F) A fire chief or fire prevention officer, in consultation with a police chief or other similar chief law enforcement officer of a municipal corporation, township, or township or joint police district or with a designee of such a police chief or other similar chief law enforcement officer, shall conduct the inspection referred to in division (E)(1)(b) of this section, complete the checklist referred to in division (E)(1)(b) of this section while conducting the inspection, and provide a copy of the completed checklist to the fire marshal.

(G) A designee, if any, designated by a police chief or other similar chief law enforcement officer under this section or section 3743.54 of the Revised Code shall be a law enforcement officer serving in the same law enforcement agency as the police chief or other similar chief law enforcement officer.

Sec. 3743.54. (A) A licensed exhibitor of fireworks may acquire fireworks for use at a public fireworks exhibition only from a licensed manufacturer of fireworks or licensed wholesaler of fireworks, and only in accordance with the procedures specified in this section and section 3743.55 of the Revised Code.

(B)(1) A licensed exhibitor of fireworks who wishes to conduct a public fireworks exhibition shall apply for approval to conduct the exhibition to whichever of the following persons is appropriate under the circumstances:

(a) Unless division (B)(1)(c) or (d) of this section applies, if the exhibition will take place in a municipal corporation, the approval shall be obtained from the fire chief, and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the particular municipal corporation.

(b) Unless division (B)(1)(c) or (d) of this section applies, if the exhibition will take place in an unincorporated area, the

approval shall be obtained from the fire chief of the particular township or township fire district, and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the particular township, or township or joint police district.

(c) If fire protection services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the fire chief of the political subdivision providing the fire protection services and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the political subdivision in which the premises on which the exhibition will take place are located. If police services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the political subdivision providing the police services and from the fire chief of the political subdivision in which the premises on which the exhibition will take place are located. If both fire and police protection services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the fire chief, and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the political subdivisions providing the police and fire protection services.

(d) If there is no municipal corporation, township, or township fire district fire department, no municipal corporation, township, or township or joint police district police department,

and no contract for police or fire protection services between 78089
political subdivisions covering the premises on which the 78090
exhibition will take place, the approval shall be obtained from 78091
the fire prevention officer, and from the police chief or other 78092
similar chief law enforcement officer, or the designee of the 78093
police chief or other similar chief law enforcement officer, 78094
having jurisdiction over the premises. 78095

(2) The approval required by division (B)(1) of this section 78096
shall be evidenced by the fire chief or fire prevention officer 78097
and by the police chief or other similar chief law enforcement 78098
officer, or the designee of the police chief or other similar 78099
chief law enforcement officer, signing a permit for the 78100
exhibition. The fire marshal shall prescribe the form of 78101
exhibition permits and distribute copies of the form to fire 78102
chiefs, to fire prevention officers, and to police chiefs or other 78103
similar chief law enforcement officers of municipal corporations, 78104
townships, or township or joint police districts, or their 78105
designees, in this state. Any exhibitor of fireworks who wishes to 78106
conduct a public fireworks exhibition may obtain a copy of the 78107
form from the fire marshal or, if it is available, from a fire 78108
chief, a fire prevention officer, a police chief or other similar 78109
chief law enforcement officer of a municipal corporation, 78110
township, or township or joint police district, or a designee of 78111
such a police chief or other similar chief law enforcement 78112
officer. 78113

(C) Before a permit is signed and issued to a licensed 78114
exhibitor of fireworks, the fire chief or fire prevention officer, 78115
in consultation with the police chief or other similar chief law 78116
enforcement officer or with the designee of the police chief or 78117
other similar chief law enforcement officer, shall inspect the 78118
premises on which the exhibition will take place and shall 78119
determine that, in fact, the applicant for the permit is a 78120

licensed exhibitor of fireworks. Each applicant shall show the 78121
applicant's license as an exhibitor of fireworks to the fire chief 78122
or fire prevention officer. 78123

The fire chief or fire prevention officer, and the police 78124
chief or other similar chief law enforcement officer, or the 78125
designee of the police chief or other similar chief law 78126
enforcement officer, shall give approval to conduct a public 78127
fireworks exhibition only if satisfied, based on the inspection, 78128
that the premises on which the exhibition will be conducted allow 78129
the exhibitor to comply with the rules adopted by the fire marshal 78130
pursuant to divisions (B) and (E) of section 3743.53 of the 78131
Revised Code and that the applicant is, in fact, a licensed 78132
exhibitor of fireworks. The fire chief or fire prevention officer, 78133
in consultation with the police chief or other similar chief law 78134
enforcement officer or with the designee of the police chief or 78135
other similar chief law enforcement officer, may inspect the 78136
premises immediately prior to the exhibition to determine if the 78137
exhibitor has complied with the rules, and may revoke a permit for 78138
noncompliance with the rules. 78139

(D) If the legislative authorities of their political 78140
subdivisions have prescribed a fee for the issuance of a permit 78141
for a public fireworks exhibition, fire chiefs or fire prevention 78142
officers, and police chiefs, other similar chief law enforcement 78143
officers, or their designee, shall not issue a permit until the 78144
exhibitor pays the requisite fee. 78145

Each exhibitor shall provide an indemnity bond in the amount 78146
of at least one million dollars, with surety satisfactory to the 78147
fire chief or fire prevention officer and to the police chief or 78148
other similar chief law enforcement officer, or the designee of 78149
the police chief or other similar chief law enforcement officer, 78150
conditioned for the payment of all final judgments that may be 78151
rendered against the exhibitor on account of injury, death, or 78152

loss to persons or property emanating from the fireworks 78153
exhibition, or proof of insurance coverage of at least one million 78154
dollars for liability arising from injury, death, or loss to 78155
persons or property emanating from the fireworks exhibition. The 78156
legislative authority of a political subdivision in which a public 78157
fireworks exhibition will take place may require the exhibitor to 78158
provide an indemnity bond or proof of insurance coverage in 78159
amounts greater than those required by this division. Fire chiefs 78160
or fire prevention officers, and police chiefs, other similar 78161
chief law enforcement officers, or their designee, shall not issue 78162
a permit until the exhibitor provides the bond or proof of the 78163
insurance coverage required by this division or by the political 78164
subdivision in which the fireworks exhibition will take place. 78165

(E)(1) Each permit for a fireworks exhibition issued by a 78166
fire chief or fire prevention officer, and by the police chief or 78167
other similar chief law enforcement officer, or the designee of 78168
the police chief or other similar chief law enforcement officer, 78169
shall contain a distinct number, designate the municipal 78170
corporation, township, ~~or~~ township fire or police district, or 78171
joint police district of the fire chief, fire prevention officer, 78172
police chief or other similar chief law enforcement officer, or 78173
designee of the police chief or other similar chief law 78174
enforcement officer, and identify the certified fire safety 78175
inspector, fire chief, or fire prevention officer who will be 78176
present before, during, and after the exhibition, where 78177
appropriate. A copy of each permit issued shall be forwarded by 78178
the fire chief or fire prevention officer, and by the police chief 78179
or other similar chief law enforcement officer, or the designee of 78180
the police chief or other similar chief law enforcement officer, 78181
issuing it to the fire marshal, who shall keep a record of the 78182
permits received. A permit is not transferable or assignable. 78183

(2) Each fire chief, fire prevention officer, police chief or 78184

other similar chief law enforcement officer, and designee of a 78185
police chief or other similar chief law enforcement officer shall 78186
keep a record of issued permits for fireworks exhibitions. In this 78187
list, the fire chief, fire prevention officer, police chief or 78188
other similar chief law enforcement officer, and designee of a 78189
police chief or other similar chief law enforcement officer shall 78190
list the name of the exhibitor, the exhibitor's license number, 78191
the premises on which the exhibition will be conducted, the date 78192
and time of the exhibition, and the number and political 78193
subdivision designation of the permit issued to the exhibitor for 78194
the exhibition. 78195

(F) The governing authority having jurisdiction in the 78196
location where an exhibition is to take place shall require that a 78197
certified fire safety inspector, fire chief, or fire prevention 78198
officer be present before, during, and after the exhibition, and 78199
shall require the certified fire safety inspector, fire chief, or 78200
fire prevention officer to inspect the premises where the 78201
exhibition is to take place and determine whether the exhibition 78202
is in compliance with this chapter. 78203

(G) Notwithstanding any provision of the Revised Code to the 78204
contrary, the state fire marshal is hereby authorized to create 78205
additional license categories for fireworks exhibitors and to 78206
create additional permit requirements for fireworks exhibitions 78207
for the indoor use of fireworks and other uses of pyrotechnics, 78208
including the use of pyrotechnic materials that do not meet the 78209
definition of fireworks as described in section 3743.01 of the 78210
Revised Code. Such licenses and permits and the fees for such 78211
licenses and permits shall be described in rules adopted by the 78212
fire marshal under Chapter 119. of the Revised Code. Such rules 78213
may provide for different standards for exhibitor licensure and 78214
the permitting and conducting of a fireworks exhibition than the 78215
requirements of this chapter. 78216

Prior to the state fire marshal's adoption of the rules 78217
described in this division, the director of commerce shall appoint 78218
a committee consisting of the state fire marshal or the marshal's 78219
designee, three representatives of the fireworks industry, and 78220
three representatives of the fire service to assist the state fire 78221
marshal in adopting these rules. Unless an extension is granted by 78222
the director of commerce, the state fire marshal shall adopt 78223
initial rules under this section not later than July 1, 2010. 78224

Sec. 3743.64. (A) No person shall conduct a fireworks 78225
exhibition in this state or act as an exhibitor of fireworks in 78226
this state unless the person is a licensed exhibitor of fireworks. 78227

(B) No person shall conduct a fireworks exhibition in this 78228
state or act as an exhibitor of fireworks in this state after the 78229
person's license as an exhibitor of fireworks has expired, been 78230
denied renewal, or been revoked, unless a new license has been 78231
obtained. 78232

(C) No licensed exhibitor of fireworks shall fail to comply 78233
with the applicable requirements of the rules adopted by the fire 78234
marshal pursuant to divisions (B) and (E) of section 3743.53 of 78235
the Revised Code or to comply with divisions (C) and (D) of that 78236
section. 78237

(D) No licensed exhibitor of fireworks shall conduct a 78238
fireworks exhibition unless a permit has been secured for the 78239
exhibition pursuant to section 3743.54 of the Revised Code or if a 78240
permit so secured is revoked by a fire chief or fire prevention 78241
officer, in consultation with a police chief or other similar 78242
chief law enforcement officer of a municipal corporation, 78243
township, or township or joint police district or with a designee 78244
of such a police chief or other similar chief law enforcement 78245
officer, pursuant to that section. 78246

(E) No licensed exhibitor of fireworks shall acquire 78247

fireworks for use at a fireworks exhibition other than in 78248
accordance with sections 3743.54 and 3743.55 of the Revised Code. 78249

(F) No licensed exhibitor of fireworks or other person 78250
associated with the conduct of a fireworks exhibition shall have 78251
possession or control of, or be under the influence of, any 78252
intoxicating liquor, beer, or controlled substance while on the 78253
premises on which the exhibition is being conducted. 78254

(G) No licensed exhibitor of fireworks shall permit an 78255
employee to assist the licensed exhibitor in conducting fireworks 78256
exhibitions unless the employee is registered with the fire 78257
marshal under section 3743.56 of the Revised Code. 78258

(H) Except as provided in division (C) of section 3743.541 of 78259
the Revised Code, no person shall knowingly, or knowingly permit 78260
another person to, dismantle, reposition, or otherwise disturb any 78261
fireworks, associated equipment or materials, or other items 78262
within a fireworks incident site, or any evidence related to a 78263
fireworks incident, at any time after that person has reason to 78264
believe a fireworks incident has occurred, before the state fire 78265
marshal, the state fire marshal's designee, a member of the state 78266
fire marshal's staff, or other appropriate state or local law 78267
enforcement authorities permit in accordance with section 3743.541 78268
of the Revised Code the dismantling, repositioning, or other 78269
disturbance of the fireworks, equipment, materials, or items 78270
within the fireworks incident site or of any evidence related to 78271
the fireworks incident. 78272

Sec. 3745.015. There is hereby created in the state treasury 78273
the environmental protection fund consisting of money credited to 78274
the fund under ~~divisions~~ division (A)(3) ~~and (4)~~ of section 78275
3734.57 of the Revised Code. The environmental protection agency 78276
shall use money in the fund to pay the agency's costs associated 78277
with administering and enforcing, or otherwise conducting 78278

activities under, this chapter and Chapters 3704., 3734., 3746., 78279
3747., 3748., 3750., 3751., 3752., 3753., 5709., 6101., 6103., 78280
6105., 6109., 6111., 6112., 6113., 6115., 6117., and 6119. and 78281
sections 122.65 and 1521.19 of the Revised Code. 78282

Sec. 3745.016. There is hereby created in the state treasury 78283
the federally supported cleanup and response fund consisting of 78284
money credited to the fund from federal grants, gifts, and 78285
contributions to support the investigation and remediation of 78286
contaminated property. The environmental protection agency shall 78287
use money in the fund to support the investigation and remediation 78288
of contaminated property. 78289

Sec. 3745.11. (A) Applicants for and holders of permits, 78290
licenses, variances, plan approvals, and certifications issued by 78291
the director of environmental protection pursuant to Chapters 78292
3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 78293
to the environmental protection agency for each such issuance and 78294
each application for an issuance as provided by this section. No 78295
fee shall be charged for any issuance for which no application has 78296
been submitted to the director. 78297

(B) Each person who is issued a permit to install prior to 78298
July 1, 2003, pursuant to rules adopted under division (F) of 78299
section 3704.03 of the Revised Code shall pay the fees specified 78300
in the following schedules: 78301

(1) Fuel-burning equipment (boilers) 78302
Input capacity (maximum) 78303
(million British thermal units per hour) Permit to install 78304
Greater than 0, but less than 10 \$ 200 78305
10 or more, but less than 100 400 78306
100 or more, but less than 300 800 78307
300 or more, but less than 500 1500 78308

500 or more, but less than 1000	2500	78309
1000 or more, but less than 5000	4000	78310
5000 or more	6000	78311

Units burning exclusively natural gas, number two fuel oil,
or both shall be assessed a fee that is one-half of the applicable
amount established in division (F)(1) of this section.

(2) Incinerators		78312
Input capacity (pounds per hour)	Permit to install	78313
0 to 100	\$ 100	78314
101 to 500	400	78315
501 to 2000	750	78316
2001 to 20,000	1000	78317
more than 20,000	2500	78318

(3)(a) Process		78319
Process weight rate (pounds per hour)	Permit to install	78320
0 to 1000	\$ 200	78321
1001 to 5000	400	78322
5001 to 10,000	600	78323
10,001 to 50,000	800	78324
more than 50,000	1000	78325

In any process where process weight rate cannot be
ascertained, the minimum fee shall be assessed.

(b) Notwithstanding division (B)(3)(a) of this section, any
person issued a permit to install pursuant to rules adopted under
division (F) of section 3704.03 of the Revised Code shall pay the
fees established in division (B)(3)(c) of this section for a
process used in any of the following industries, as identified by
the applicable four-digit standard industrial classification code
according to the Standard Industrial Classification Manual
published by the United States office of management and budget in
the executive office of the president, 1972, as revised:

1211 Bituminous coal and lignite mining;	78340	
1213 Bituminous coal and lignite mining services;	78341	
1411 Dimension stone;	78342	
1422 Crushed and broken limestone;	78343	
1427 Crushed and broken stone, not elsewhere classified;	78344	
1442 Construction sand and gravel;	78345	
1446 Industrial sand;	78346	
3281 Cut stone and stone products;	78347	
3295 Minerals and earth, ground or otherwise treated.	78348	
(c) The fees established in the following schedule apply to	78349	
the issuance of a permit to install pursuant to rules adopted	78350	
under division (F) of section 3704.03 of the Revised Code for a	78351	
process listed in division (B)(3)(b) of this section:	78352	
Process weight rate (pounds per hour)	Permit to install	78353
0 to 1000	\$ 200	78354
10,001 to 50,000	300	78355
50,001 to 100,000	400	78356
100,001 to 200,000	500	78357
200,001 to 400,000	600	78358
400,001 or more	700	78359
(4) Storage tanks	78360	
Gallons (maximum useful capacity)	Permit to install	78361
0 to 20,000	\$ 100	78362
20,001 to 40,000	150	78363
40,001 to 100,000	200	78364
100,001 to 250,000	250	78365
250,001 to 500,000	350	78366
500,001 to 1,000,000	500	78367
1,000,001 or greater	750	78368
(5) Gasoline/fuel dispensing facilities	78369	

For each gasoline/fuel dispensing facility	Permit to install	78370
	\$ 100	78371
(6) Dry cleaning facilities		78372
For each dry cleaning facility	Permit to install	78373
(includes all units at the facility)	\$ 100	78374
(7) Registration status		78375
For each source covered	Permit to install	78376
by registration status	\$ 75	78377
(C)(1) Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in division (C)(1) of this section. For the purposes of that division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director.		78378 78379 78380 78381 78382 78383 78384 78385 78386
The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead:		78387 78388 78389 78390
(a) Fifteen dollars per ton on the total actual emissions of each such regulated pollutant during the period July through December 1993, to be collected no sooner than July 1, 1994;		78391 78392 78393
(b) Twenty dollars per ton on the total actual emissions of each such regulated pollutant during calendar year 1994, to be collected no sooner than April 15, 1995;		78394 78395 78396
(c) Twenty-five dollars per ton on the total actual emissions of each such regulated pollutant in calendar year 1995, and each subsequent calendar year, to be collected no sooner than the fifteenth day of April of the year next succeeding the calendar		78397 78398 78399 78400

year in which the emissions occurred. 78401

The fees levied under division (C)(1) of this section do not 78402
apply to that portion of the emissions of a regulated pollutant at 78403
a facility that exceed four thousand tons during a calendar year. 78404

(2) The fees assessed under division (C)(1) of this section 78405
are for the purpose of providing funding for the Title V permit 78406
program. 78407

(3) The fees assessed under division (C)(1) of this section 78408
do not apply to emissions from any electric generating unit 78409
designated as a Phase I unit under Title IV of the federal Clean 78410
Air Act prior to calendar year 2000. Those fees shall be assessed 78411
on the emissions from such a generating unit commencing in 78412
calendar year 2001 based upon the total actual emissions from the 78413
generating unit during calendar year 2000 and shall continue to be 78414
assessed each subsequent calendar year based on the total actual 78415
emissions from the generating unit during the preceding calendar 78416
year. 78417

(4) The director shall issue invoices to owners or operators 78418
of air contaminant sources who are required to pay a fee assessed 78419
under division (C) or (D) of this section. Any such invoice shall 78420
be issued no sooner than the applicable date when the fee first 78421
may be collected in a year under the applicable division, shall 78422
identify the nature and amount of the fee assessed, and shall 78423
indicate that the fee is required to be paid within thirty days 78424
after the issuance of the invoice. 78425

(D)(1) Except as provided in division (D)(3) of this section, 78426
from January 1, 1994, through December 31, 2003, each person who 78427
owns or operates an air contaminant source; who is required to 78428
apply for a permit to operate pursuant to rules adopted under 78429
division (G), or a variance pursuant to division (H), of section 78430
3704.03 of the Revised Code; and who is not required to apply for 78431

and obtain a Title V permit under section 3704.036 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility	
More than 0, but less than 50	\$ 75	78440
50 or more, but less than 100	300	78441
100 or more	700	78442

(2) Except as provided in division (D)(3) of this section, beginning January 1, 2004, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.03 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility	
More than 0, but less than 10	\$ 100	78457
10 or more, but less than 50	200	78458
50 or more, but less than 100	300	78459
100 or more	700	78460

(3)(a) As used in division (D) of this section, "synthetic minor facility" means a facility for which one or more permits to install or permits to operate have been issued for the air

contaminant sources at the facility that include terms and 78464
conditions that lower the facility's potential to emit air 78465
contaminants below the major source thresholds established in 78466
rules adopted under section 3704.036 of the Revised Code. 78467

(b) Beginning January 1, 2000, through June 30, ~~2012~~ 2014, 78468
each person who owns or operates a synthetic minor facility shall 78469
pay an annual fee based on the sum of the actual annual emissions 78470
from the facility of particulate matter, sulfur dioxide, nitrogen 78471
dioxide, organic compounds, and lead in accordance with the 78472
following schedule: 78473

Combined total tons 78474		
per year of all regulated 78475	Annual fee	
pollutants emitted 78476	per facility	
Less than 10 78477	\$ 170	
10 or more, but less than 20 78478	340	
20 or more, but less than 30 78479	670	
30 or more, but less than 40 78480	1,010	
40 or more, but less than 50 78481	1,340	
50 or more, but less than 60 78482	1,680	
60 or more, but less than 70 78483	2,010	
70 or more, but less than 80 78484	2,350	
80 or more, but less than 90 78485	2,680	
90 or more, but less than 100 78486	3,020	
100 or more 78487	3,350	

(4) The fees assessed under division (D)(1) of this section 78488
shall be collected annually no sooner than the fifteenth day of 78489
April, commencing in 1995. The fees assessed under division (D)(2) 78490
of this section shall be collected annually no sooner than the 78491
fifteenth day of April, commencing in 2005. The fees assessed 78492
under division (D)(3) of this section shall be collected no sooner 78493
than the fifteenth day of April, commencing in 2000. The fees 78494
assessed under division (D) of this section in a calendar year 78495

shall be based upon the sum of the actual emissions of those 78496
regulated pollutants during the preceding calendar year. For the 78497
purpose of division (D) of this section, emissions of air 78498
contaminants may be calculated using engineering calculations, 78499
emission factors, material balance calculations, or performance 78500
testing procedures, as authorized by the director. The director, 78501
by rule, may require persons who are required to pay the fees 78502
assessed under division (D) of this section to pay those fees 78503
biennially rather than annually. 78504

(E)(1) Consistent with the need to cover the reasonable costs 78505
of the Title V permit program, the director annually shall 78506
increase the fees prescribed in division (C)(1) of this section by 78507
the percentage, if any, by which the consumer price index for the 78508
most recent calendar year ending before the beginning of a year 78509
exceeds the consumer price index for calendar year 1989. Upon 78510
calculating an increase in fees authorized by division (E)(1) of 78511
this section, the director shall compile revised fee schedules for 78512
the purposes of division (C)(1) of this section and shall make the 78513
revised schedules available to persons required to pay the fees 78514
assessed under that division and to the public. 78515

(2) For the purposes of division (E)(1) of this section: 78516

(a) The consumer price index for any year is the average of 78517
the consumer price index for all urban consumers published by the 78518
United States department of labor as of the close of the 78519
twelve-month period ending on the thirty-first day of August of 78520
that year. 78521

(b) If the 1989 consumer price index is revised, the director 78522
shall use the revision of the consumer price index that is most 78523
consistent with that for calendar year 1989. 78524

(F) Each person who is issued a permit to install pursuant to 78525
rules adopted under division (F) of section 3704.03 of the Revised 78526

Code on or after July 1, 2003, shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)			78527
Input capacity (maximum)			78528
(million British thermal units per hour)	Permit to install		78529
Greater than 0, but less than 10	\$ 200		78530
10 or more, but less than 100	400		78531
100 or more, but less than 300	1000		78532
300 or more, but less than 500	2250		78533
500 or more, but less than 1000	3750		78534
1000 or more, but less than 5000	6000		78535
5000 or more	9000		78536

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.

(2) Combustion turbines and stationary internal combustion engines designed to generate electricity			78541
Generating capacity (mega watts)	Permit to install		78542
0 or more, but less than 10	\$ 25		78543
10 or more, but less than 25	150		78544
25 or more, but less than 50	300		78545
50 or more, but less than 100	500		78546
100 or more, but less than 250	1000		78547
250 or more	2000		78548

(3) Incinerators			78549
Input capacity (pounds per hour)	Permit to install		78550
0 to 100	\$ 100		78551
101 to 500	500		78552
501 to 2000	1000		78553

2001 to 20,000	1500	78558
more than 20,000	3750	78559

(4)(a) Process		78560
Process weight rate (pounds per hour)	Permit to install	78561
0 to 1000	\$ 200	78562
1001 to 5000	500	78563
5001 to 10,000	750	78564
10,001 to 50,000	1000	78565
more than 50,000	1250	78566

In any process where process weight rate cannot be 78567
ascertained, the minimum fee shall be assessed. A boiler, furnace, 78568
combustion turbine, stationary internal combustion engine, or 78569
process heater designed to provide direct heat or power to a 78570
process not designed to generate electricity shall be assessed a 78571
fee established in division (F)(4)(a) of this section. A 78572
combustion turbine or stationary internal combustion engine 78573
designed to generate electricity shall be assessed a fee 78574
established in division (F)(2) of this section. 78575

(b) Notwithstanding division (F)(4)(a) of this section, any 78576
person issued a permit to install pursuant to rules adopted under 78577
division (F) of section 3704.03 of the Revised Code shall pay the 78578
fees set forth in division (F)(4)(c) of this section for a process 78579
used in any of the following industries, as identified by the 78580
applicable two-digit, three-digit, or four-digit standard 78581
industrial classification code according to the Standard 78582
Industrial Classification Manual published by the United States 78583
office of management and budget in the executive office of the 78584
president, 1987, as revised: 78585

Major group 10, metal mining; 78586

Major group 12, coal mining; 78587

Major group 14, mining and quarrying of nonmetallic minerals; 78588

Industry group 204, grain mill products;		78589
2873 Nitrogen fertilizers;		78590
2874 Phosphatic fertilizers;		78591
3281 Cut stone and stone products;		78592
3295 Minerals and earth, ground or otherwise treated;		78593
4221 Grain elevators (storage only);		78594
5159 Farm related raw materials;		78595
5261 Retail nurseries and lawn and garden supply stores.		78596
(c) The fees set forth in the following schedule apply to the		78597
issuance of a permit to install pursuant to rules adopted under		78598
division (F) of section 3704.03 of the Revised Code for a process		78599
identified in division (F)(4)(b) of this section:		78600
Process weight rate (pounds per	Permit to install	78601
hour)		
0 to 10,000	\$ 200	78602
10,001 to 50,000	400	78603
50,001 to 100,000	500	78604
100,001 to 200,000	600	78605
200,001 to 400,000	750	78606
400,001 or more	900	78607
(5) Storage tanks		78608
Gallons (maximum useful capacity)	Permit to install	78609
0 to 20,000	\$ 100	78610
20,001 to 40,000	150	78611
40,001 to 100,000	250	78612
100,001 to 500,000	400	78613
500,001 or greater	750	78614
(6) Gasoline/fuel dispensing facilities		78615
For each gasoline/fuel		78616
dispensing facility (includes all	Permit to install	78617

units at the facility)	\$ 100	78618
(7) Dry cleaning facilities		78619
For each dry cleaning		78620
facility (includes all units	Permit to install	78621
at the facility)	\$ 100	78622
(8) Registration status		78623
For each source covered	Permit to install	78624
by registration status	\$ 75	78625
(G) An owner or operator who is responsible for an asbestos		78626
demolition or renovation project pursuant to rules adopted under		78627
section 3704.03 of the Revised Code shall pay the fees set forth		78628
in the following schedule:		78629
Action	Fee	78630
Each notification	\$75	78631
Asbestos removal	\$3/unit	78632
Asbestos cleanup	\$4/cubic yard	78633
For purposes of this division, "unit" means any combination of		78634
linear feet or square feet equal to fifty.		78635
(H) A person who is issued an extension of time for a permit		78636
to install an air contaminant source pursuant to rules adopted		78637
under division (F) of section 3704.03 of the Revised Code shall		78638
pay a fee equal to one-half the fee originally assessed for the		78639
permit to install under this section, except that the fee for such		78640
an extension shall not exceed two hundred dollars.		78641
(I) A person who is issued a modification to a permit to		78642
install an air contaminant source pursuant to rules adopted under		78643
section 3704.03 of the Revised Code shall pay a fee equal to		78644
one-half of the fee that would be assessed under this section to		78645
obtain a permit to install the source. The fee assessed by this		78646
division only applies to modifications that are initiated by the		78647
owner or operator of the source and shall not exceed two thousand		78648

dollars. 78649

(J) Notwithstanding division (B) or (F) of this section, a 78650
person who applies for or obtains a permit to install pursuant to 78651
rules adopted under division (F) of section 3704.03 of the Revised 78652
Code after the date actual construction of the source began shall 78653
pay a fee for the permit to install that is equal to twice the fee 78654
that otherwise would be assessed under the applicable division 78655
unless the applicant received authorization to begin construction 78656
under division (W) of section 3704.03 of the Revised Code. This 78657
division only applies to sources for which actual construction of 78658
the source begins on or after July 1, 1993. The imposition or 78659
payment of the fee established in this division does not preclude 78660
the director from taking any administrative or judicial 78661
enforcement action under this chapter, Chapter 3704., 3714., 78662
3734., or 6111. of the Revised Code, or a rule adopted under any 78663
of them, in connection with a violation of rules adopted under 78664
division (F) of section 3704.03 of the Revised Code. 78665

As used in this division, "actual construction of the source" 78666
means the initiation of physical on-site construction activities 78667
in connection with improvements to the source that are permanent 78668
in nature, including, without limitation, the installation of 78669
building supports and foundations and the laying of underground 78670
pipework. 78671

(K) Fifty cents per ton of each fee assessed under division 78672
(C) of this section on actual emissions from a source and received 78673
by the environmental protection agency pursuant to that division 78674
shall be deposited into the state treasury to the credit of the 78675
small business assistance fund created in section 3706.19 of the 78676
Revised Code. The remainder of the moneys received by the division 78677
pursuant to that division and moneys received by the agency 78678
pursuant to divisions (D), (F), (G), (H), (I), and (J) of this 78679
section shall be deposited in the state treasury to the credit of 78680

the clean air fund created in section 3704.035 of the Revised Code. 78681
78682

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 78683
or (c) of this section, a person issued a water discharge permit 78684
or renewal of a water discharge permit pursuant to Chapter 6111. 78685
of the Revised Code shall pay a fee based on each point source to 78686
which the issuance is applicable in accordance with the following 78687
schedule: 78688

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	78690
1,001 to 5000	100	78691
5,001 to 50,000	200	78692
50,001 to 100,000	300	78693
100,001 to 300,000	525	78694
over 300,000	750	78695

(b) Notwithstanding the fee schedule specified in division 78696
(L)(1)(a) of this section, the fee for a water discharge permit 78697
that is applicable to coal mining operations regulated under 78698
Chapter 1513. of the Revised Code shall be two hundred fifty 78699
dollars per mine. 78700

(c) Notwithstanding the fee schedule specified in division 78701
(L)(1)(a) of this section, the fee for a water discharge permit 78702
for a public discharger identified by I in the third character of 78703
the permittee's NPDES permit number shall not exceed seven hundred 78704
fifty dollars. 78705

(2) A person applying for a plan approval for a wastewater 78706
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 78707
of the Revised Code shall pay a fee of one hundred dollars plus 78708
sixty-five one-hundredths of one per cent of the estimated project 78709
cost through June 30, ~~2012~~ 2014, and one hundred dollars plus 78710
two-tenths of one per cent of the estimated project cost on and 78711
after July 1, ~~2012~~ 2014, except that the total fee shall not 78712

exceed fifteen thousand dollars through June 30, ~~2012~~ 2014, and 78713
five thousand dollars on and after July 1, ~~2012~~ 2014. The fee 78714
shall be paid at the time the application is submitted. 78715

(3) A person issued a modification of a water discharge 78716
permit shall pay a fee equal to one-half the fee that otherwise 78717
would be charged for a water discharge permit, except that the fee 78718
for the modification shall not exceed four hundred dollars. 78719

(4) A person who has entered into an agreement with the 78720
director under section 6111.14 of the Revised Code shall pay an 78721
administrative service fee for each plan submitted under that 78722
section for approval that shall not exceed the minimum amount 78723
necessary to pay administrative costs directly attributable to 78724
processing plan approvals. The director annually shall calculate 78725
the fee and shall notify all persons who have entered into 78726
agreements under that section, or who have applied for agreements, 78727
of the amount of the fee. 78728

(5)(a)(i) Not later than January 30, ~~2010~~ 2012, and January 78729
30, ~~2011~~ 2013, a person holding an NPDES discharge permit issued 78730
pursuant to Chapter 6111. of the Revised Code with an average 78731
daily discharge flow of five thousand gallons or more shall pay a 78732
nonrefundable annual discharge fee. Any person who fails to pay 78733
the fee at that time shall pay an additional amount that equals 78734
ten per cent of the required annual discharge fee. 78735

(ii) The billing year for the annual discharge fee 78736
established in division (L)(5)(a)(i) of this section shall consist 78737
of a twelve-month period beginning on the first day of January of 78738
the year preceding the date when the annual discharge fee is due. 78739
In the case of an existing source that permanently ceases to 78740
discharge during a billing year, the director shall reduce the 78741
annual discharge fee, including the surcharge applicable to 78742
certain industrial facilities pursuant to division (L)(5)(c) of 78743
this section, by one-twelfth for each full month during the 78744

billing year that the source was not discharging, but only if the 78745
person holding the NPDES discharge permit for the source notifies 78746
the director in writing, not later than the first day of October 78747
of the billing year, of the circumstances causing the cessation of 78748
discharge. 78749

(iii) The annual discharge fee established in division 78750
(L)(5)(a)(i) of this section, except for the surcharge applicable 78751
to certain industrial facilities pursuant to division (L)(5)(c) of 78752
this section, shall be based upon the average daily discharge flow 78753
in gallons per day calculated using first day of May through 78754
thirty-first day of October flow data for the period two years 78755
prior to the date on which the fee is due. In the case of NPDES 78756
discharge permits for new sources, the fee shall be calculated 78757
using the average daily design flow of the facility until actual 78758
average daily discharge flow values are available for the time 78759
period specified in division (L)(5)(a)(iii) of this section. The 78760
annual discharge fee may be prorated for a new source as described 78761
in division (L)(5)(a)(ii) of this section. 78762

(b) An NPDES permit holder that is a public discharger shall 78763
pay the fee specified in the following schedule: 78764

Average daily	Fee due by	
discharge flow	January 30,	
	2010 <u>2012</u> , and	
	January 30, 2011	
	<u>2013</u>	
5,000 to 49,999	\$ 200	78769
50,000 to 100,000	500	78770
100,001 to 250,000	1,050	78771
250,001 to 1,000,000	2,600	78772
1,000,001 to 5,000,000	5,200	78773
5,000,001 to 10,000,000	10,350	78774
10,000,001 to 20,000,000	15,550	78775

20,000,001 to 50,000,000	25,900	78776
50,000,001 to 100,000,000	41,400	78777
100,000,001 or more	62,100	78778

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, 2010 <u>2012</u> , and January 30, 2011 <u>2013</u>	
5,000 to 49,999	\$ 250	78795
50,000 to 250,000	1,200	78796
250,001 to 1,000,000	2,950	78797
1,000,001 to 5,000,000	5,850	78798
5,000,001 to 10,000,000	8,800	78799
10,000,001 to 20,000,000	11,700	78800
20,000,001 to 100,000,000	14,050	78801
100,000,001 to 250,000,000	16,400	78802
250,000,001 or more	18,700	78803

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee

billing year specified in division (L)(5)(a)(ii) of this section 78807
shall pay a nonrefundable annual surcharge of seven thousand five 78808
hundred dollars not later than January 30, ~~2010~~ 2012, and not 78809
later than January 30, ~~2011~~ 2013. Any person who fails to pay the 78810
surcharge at that time shall pay an additional amount that equals 78811
ten per cent of the amount of the surcharge. 78812

(d) Notwithstanding divisions (L)(5)(b) and (c) of this 78813
section, a public discharger identified by I in the third 78814
character of the permittee's NPDES permit number and an industrial 78815
discharger identified by I, J, L, V, W, X, Y, or Z in the third 78816
character of the permittee's NPDES permit number shall pay a 78817
nonrefundable annual discharge fee of one hundred eighty dollars 78818
not later than January 30, ~~2010~~ 2012, and not later than January 78819
30, ~~2011~~ 2013. Any person who fails to pay the fee at that time 78820
shall pay an additional amount that equals ten per cent of the 78821
required fee. 78822

(6) Each person obtaining a national pollutant discharge 78823
elimination system general or individual permit for municipal 78824
storm water discharge shall pay a nonrefundable storm water 78825
discharge fee of one hundred dollars per square mile of area 78826
permitted. The fee shall not exceed ten thousand dollars and shall 78827
be payable on or before January 30, 2004, and the thirtieth day of 78828
January of each year thereafter. Any person who fails to pay the 78829
fee on the date specified in division (L)(6) of this section shall 78830
pay an additional amount per year equal to ten per cent of the 78831
annual fee that is unpaid. 78832

(7) The director shall transmit all moneys collected under 78833
division (L) of this section to the treasurer of state for deposit 78834
into the state treasury to the credit of the surface water 78835
protection fund created in section 6111.038 of the Revised Code. 78836

(8) As used in division (L) of this section: 78837

(a) "NPDES" means the federally approved national pollutant discharge elimination system program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Chapter 6111. of the Revised Code and rules adopted under it.

(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number assigned by the director.

(c) "Industrial discharger" means any holder of an NPDES permit identified by I in the second character of the NPDES permit number assigned by the director.

(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director.

(M) Through June 30, ~~2012~~ 2014, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

Except as provided in division (M)(4) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule:

(1) For the initial license required under division (A)(1) of section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of

the Revised Code, and for each license renewal required for such a system prior to January 31, ~~2012~~ 2014, the fee is:

Number of service connections	Fee amount	
Not more than 49	\$ 112	78872
50 to 99	176	78873
Number of service connections	Average cost per connection	
100 to 2,499	\$ 1.92	78875
2,500 to 4,999	1.48	78876
5,000 to 7,499	1.42	78877
7,500 to 9,999	1.34	78878
10,000 to 14,999	1.16	78879
15,000 to 24,999	1.10	78880
25,000 to 49,999	1.04	78881
50,000 to 99,999	.92	78882
100,000 to 149,999	.86	78883
150,000 to 199,999	.80	78884
200,000 or more	.76	78885

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under division (A)(2) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, ~~2012~~ 2014, the fee is:

Population served	Fee amount	
Fewer than 150	\$ 112	78900

150 to 299	176	78901
300 to 749	384	78902
750 to 1,499	628	78903
1,500 to 2,999	1,268	78904
3,000 to 7,499	2,816	78905
7,500 to 14,999	5,510	78906
15,000 to 22,499	9,048	78907
22,500 to 29,999	12,430	78908
30,000 or more	16,820	78909

As used in division (M)(2) of this section, "population served" means the total number of individuals ~~receiving water from~~ having access to the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under division (A)(3) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, ~~2012~~ 2014, the fee is:

Number of wells <u>or sources, other than surface water,</u> supplying system	Fee amount	
1	\$112	78922
2	112	78923
3	176	78924
4	278	78925
5	568	78926
System designated as using a surface water source	792	78928

As used in division (M)(3) of this section, "number of wells or sources, other than surface water, supplying system" means those wells or sources that are physically connected to the

plumbing system serving the public water system. 78932

(4) A public water system designated as using a surface water 78933
source shall pay a fee of seven hundred ninety-two dollars or the 78934
amount calculated under division (M)(1) or (2) of this section, 78935
whichever is greater. 78936

(N)(1) A person applying for a plan approval for a public 78937
water supply system under section 6109.07 of the Revised Code 78938
shall pay a fee of one hundred fifty dollars plus thirty-five 78939
hundredths of one per cent of the estimated project cost, except 78940
that the total fee shall not exceed twenty thousand dollars 78941
through June 30, ~~2012~~ 2014, and fifteen thousand dollars on and 78942
after July 1, ~~2012~~ 2014. The fee shall be paid at the time the 78943
application is submitted. 78944

(2) A person who has entered into an agreement with the 78945
director under division (A)(2) of section 6109.07 of the Revised 78946
Code shall pay an administrative service fee for each plan 78947
submitted under that section for approval that shall not exceed 78948
the minimum amount necessary to pay administrative costs directly 78949
attributable to processing plan approvals. The director annually 78950
shall calculate the fee and shall notify all persons that have 78951
entered into agreements under that division, or who have applied 78952
for agreements, of the amount of the fee. 78953

(3) Through June 30, ~~2012~~ 2014, the following fee, on a per 78954
survey basis, shall be charged any person for services rendered by 78955
the state in the evaluation of laboratories and laboratory 78956
personnel for compliance with accepted analytical techniques and 78957
procedures established pursuant to Chapter 6109. of the Revised 78958
Code for determining the qualitative characteristics of water: 78959

microbiological		78960
MMO-MUG	\$2,000	78961
MF	2,100	78962

MMO-MUG and MF	2,550	78963
organic chemical	5,400	78964
trace metals	5,400	78965
standard chemistry	2,800	78966
limited chemistry	1,550	78967

On and after July 1, ~~2012~~ 2014, the following fee, on a per survey basis, shall be charged any such person:

microbiological	\$ 1,650	78970
organic chemicals	3,500	78971
trace metals	3,500	78972
standard chemistry	1,800	78973
limited chemistry	1,000	78974

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, ~~2012~~ 2014, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

- (a) "MF" means microfiltration.
- (b) "MMO" means minimal medium ONPG.
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(O) Any person applying to the director for examination for certification as an operator of a water supply system or

wastewater system under Chapter 6109. or 6111. of the Revised Code, at the time the application is submitted, shall pay an application fee of forty-five dollars through November 30, ~~2012~~ 2014, and twenty-five dollars on and after December 1, ~~2012~~ 2014. Upon approval from the director that the applicant is eligible to take the examination therefor, the applicant shall pay a fee in accordance with the following schedule through November 30, ~~2012~~ 2014:

Class A operator	\$35	78993
Class I operator	60	78994
Class II operator	75	78995
Class III operator	85	78996
Class IV operator	100	78997

On and after December 1, ~~2012~~ 2014, the applicant shall pay a fee in accordance with the following schedule:

Class A operator	\$25	79000
Class I operator	\$45	79001
Class II operator	55	79002
Class III operator	65	79003
Class IV operator	75	79004

A person shall pay a biennial certification renewal fee for each applicable class of certification in accordance with the following schedule:

Class A operator	\$25	79005
Class I operator	35	79006
Class II operator	45	79007
Class III operator	55	79008
Class IV operator	65	79009

If a certification renewal fee is received by the director more than thirty days, but not more than one year after the expiration date of the certification, the person shall pay a certification renewal fee in accordance with the following

schedule:		79025
Class A operator	\$45	79026
Class I operator	55	79027
Class II operator	65	79028
Class III operator	75	79029
Class IV operator	85	79030

A person who requests a replacement certificate shall pay a fee of twenty-five dollars at the time the request is made.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(P) Any person submitting an application for an industrial water pollution control certificate under section 6111.31 of the Revised Code, as that section existed before its repeal by H.B. 95 of the 125th general assembly, shall pay a nonrefundable fee of five hundred dollars at the time the application is submitted. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. A person paying a certificate fee under this division shall not pay an application fee under division (S)(1) of this section. On and after June 26, 2003, persons shall file such applications and pay the fee as required under sections 5709.20 to 5709.27 of the Revised Code, and proceeds from the fee shall be credited as provided in section 5709.212 of the Revised Code.

(Q) Except as otherwise provided in division (R) of this section, a person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an incineration facility, or a modification of such an existing facility that includes an increase in the total disposal or

treatment capacity of the facility pursuant to Chapter 3734. of 79057
the Revised Code shall pay a fee of ten dollars per thousand cubic 79058
yards of disposal or treatment capacity, or one thousand dollars, 79059
whichever is greater, except that the total fee for any such 79060
permit shall not exceed eighty thousand dollars. A person issued a 79061
modification of a permit for a solid waste disposal facility or an 79062
infectious waste treatment facility that does not involve an 79063
increase in the total disposal or treatment capacity of the 79064
facility shall pay a fee of one thousand dollars. A person issued 79065
a permit to install a new, or modify an existing, solid waste 79066
transfer facility under that chapter shall pay a fee of two 79067
thousand five hundred dollars. A person issued a permit to install 79068
a new or to modify an existing solid waste incineration or 79069
composting facility, or an existing infectious waste treatment 79070
facility using incineration as its principal method of treatment, 79071
under that chapter shall pay a fee of one thousand dollars. The 79072
increases in the permit fees under this division resulting from 79073
the amendments made by Amended Substitute House Bill 592 of the 79074
117th general assembly do not apply to any person who submitted an 79075
application for a permit to install a new, or modify an existing, 79076
solid waste disposal facility under that chapter prior to 79077
September 1, 1987; any such person shall pay the permit fee 79078
established in this division as it existed prior to June 24, 1988. 79079
In addition to the applicable permit fee under this division, a 79080
person issued a permit to install or modify a solid waste facility 79081
or an infectious waste treatment facility under that chapter who 79082
fails to pay the permit fee to the director in compliance with 79083
division (V) of this section shall pay an additional ten per cent 79084
of the amount of the fee for each week that the permit fee is 79085
late. 79086

Permit and late payment fees paid to the director under this 79087
division shall be credited to the general revenue fund. 79088

(R)(1) A person issued a registration certificate for a scrap
tire collection facility under section 3734.75 of the Revised Code
shall pay a fee of two hundred dollars, except that if the
facility is owned or operated by a motor vehicle salvage dealer
licensed under Chapter 4738. of the Revised Code, the person shall
pay a fee of twenty-five dollars.

(2) A person issued a registration certificate for a new
scrap tire storage facility under section 3734.76 of the Revised
Code shall pay a fee of three hundred dollars, except that if the
facility is owned or operated by a motor vehicle salvage dealer
licensed under Chapter 4738. of the Revised Code, the person shall
pay a fee of twenty-five dollars.

(3) A person issued a permit for a scrap tire storage
facility under section 3734.76 of the Revised Code shall pay a fee
of one thousand dollars, except that if the facility is owned or
operated by a motor vehicle salvage dealer licensed under Chapter
4738. of the Revised Code, the person shall pay a fee of fifty
dollars.

(4) A person issued a permit for a scrap tire monocell or
monofill facility under section 3734.77 of the Revised Code shall
pay a fee of ten dollars per thousand cubic yards of disposal
capacity or one thousand dollars, whichever is greater, except
that the total fee for any such permit shall not exceed eighty
thousand dollars.

(5) A person issued a registration certificate for a scrap
tire recovery facility under section 3734.78 of the Revised Code
shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery
facility under section 3734.78 of the Revised Code shall pay a fee
of one thousand dollars.

(7) In addition to the applicable registration certificate or

permit fee under divisions (R)(1) to (6) of this section, a person 79120
issued a registration certificate or permit for any such scrap 79121
tire facility who fails to pay the registration certificate or 79122
permit fee to the director in compliance with division (V) of this 79123
section shall pay an additional ten per cent of the amount of the 79124
fee for each week that the fee is late. 79125

(8) The registration certificate, permit, and late payment 79126
fees paid to the director under divisions (R)(1) to (7) of this 79127
section shall be credited to the scrap tire management fund 79128
created in section 3734.82 of the Revised Code. 79129

(S)(1) Except as provided by divisions (L), (M), (N), (O), 79130
(P), and (S)(2) of this section, division (A)(2) of section 79131
3734.05 of the Revised Code, section 3734.79 of the Revised Code, 79132
and rules adopted under division (T)(1) of this section, any 79133
person applying for a registration certificate under section 79134
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 79135
variance, or plan approval under Chapter 3734. of the Revised Code 79136
shall pay a nonrefundable fee of fifteen dollars at the time the 79137
application is submitted. 79138

Except as otherwise provided, any person applying for a 79139
permit, variance, or plan approval under Chapter 6109. or 6111. of 79140
the Revised Code shall pay a nonrefundable fee of one hundred 79141
dollars at the time the application is submitted through June 30, 79142
~~2012~~ 2014, and a nonrefundable fee of fifteen dollars at the time 79143
the application is submitted on and after July 1, ~~2012~~ 2014. 79144
~~Through~~ Except as provided in division (S)(3) of this section, 79145
through June 30, ~~2012~~ 2014, any person applying for a national 79146
pollutant discharge elimination system permit under Chapter 6111. 79147
of the Revised Code shall pay a nonrefundable fee of two hundred 79148
dollars at the time of application for the permit. On and after 79149
July 1, ~~2012~~ 2014, such a person shall pay a nonrefundable fee of 79150
fifteen dollars at the time of application. 79151

In addition to the application fee established under division 79152
(S)(1) of this section, any person applying for a national 79153
pollutant discharge elimination system general storm water 79154
construction permit shall pay a nonrefundable fee of twenty 79155
dollars per acre for each acre that is permitted above five acres 79156
at the time the application is submitted. However, the per acreage 79157
fee shall not exceed three hundred dollars. In addition, any 79158
person applying for a national pollutant discharge elimination 79159
system general storm water industrial permit shall pay a 79160
nonrefundable fee of one hundred fifty dollars at the time the 79161
application is submitted. 79162

The director shall transmit all moneys collected under 79163
division (S)(1) of this section pursuant to Chapter 6109. of the 79164
Revised Code to the treasurer of state for deposit into the 79165
drinking water protection fund created in section 6109.30 of the 79166
Revised Code. 79167

The director shall transmit all moneys collected under 79168
division (S)(1) of this section pursuant to Chapter 6111. of the 79169
Revised Code and under division (S)(3) of this section to the 79170
treasurer of state for deposit into the surface water protection 79171
fund created in section 6111.038 of the Revised Code. 79172

If a registration certificate is issued under section 79173
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 79174
the application fee paid shall be deducted from the amount of the 79175
registration certificate fee due under division (R)(1), (2), or 79176
(5) of this section, as applicable. 79177

If a person submits an electronic application for a 79178
registration certificate, permit, variance, or plan approval for 79179
which an application fee is established under division (S)(1) of 79180
this section, the person shall pay the applicable application fee 79181
as expeditiously as possible after the submission of the 79182
electronic application. An application for a registration 79183

certificate, permit, variance, or plan approval for which an 79184
application fee is established under division (S)(1) of this 79185
section shall not be reviewed or processed until the applicable 79186
application fee, and any other fees established under this 79187
division, are paid. 79188

(2) Division (S)(1) of this section does not apply to an 79189
application for a registration certificate for a scrap tire 79190
collection or storage facility submitted under section 3734.75 or 79191
3734.76 of the Revised Code, as applicable, if the owner or 79192
operator of the facility or proposed facility is a motor vehicle 79193
salvage dealer licensed under Chapter 4738. of the Revised Code. 79194

(3) A person applying for coverage under a national pollutant 79195
discharge elimination system general discharge permit for 79196
household sewage treatment systems shall pay the following fees: 79197

(a) A nonrefundable fee of two hundred dollars at the time of 79198
application for initial permit coverage; 79199

(b) A nonrefundable fee of one hundred dollars at the time of 79200
application for a renewal of permit coverage. 79201

(T) The director may adopt, amend, and rescind rules in 79202
accordance with Chapter 119. of the Revised Code that do all of 79203
the following: 79204

(1) Prescribe fees to be paid by applicants for and holders 79205
of any license, permit, variance, plan approval, or certification 79206
required or authorized by Chapter 3704., 3734., 6109., or 6111. of 79207
the Revised Code that are not specifically established in this 79208
section. The fees shall be designed to defray the cost of 79209
processing, issuing, revoking, modifying, denying, and enforcing 79210
the licenses, permits, variances, plan approvals, and 79211
certifications. 79212

The director shall transmit all moneys collected under rules 79213
adopted under division (T)(1) of this section pursuant to Chapter 79214

6109. of the Revised Code to the treasurer of state for deposit 79215
into the drinking water protection fund created in section 6109.30 79216
of the Revised Code. 79217

The director shall transmit all moneys collected under rules 79218
adopted under division (T)(1) of this section pursuant to Chapter 79219
6111. of the Revised Code to the treasurer of state for deposit 79220
into the surface water protection fund created in section 6111.038 79221
of the Revised Code. 79222

(2) Exempt the state and political subdivisions thereof, 79223
including education facilities or medical facilities owned by the 79224
state or a political subdivision, or any person exempted from 79225
taxation by section 5709.07 or 5709.12 of the Revised Code, from 79226
any fee required by this section; 79227

(3) Provide for the waiver of any fee, or any part thereof, 79228
otherwise required by this section whenever the director 79229
determines that the imposition of the fee would constitute an 79230
unreasonable cost of doing business for any applicant, class of 79231
applicants, or other person subject to the fee; 79232

(4) Prescribe measures that the director considers necessary 79233
to carry out this section. 79234

(U) When the director reasonably demonstrates that the direct 79235
cost to the state associated with the issuance of a permit to 79236
install, license, variance, plan approval, or certification 79237
exceeds the fee for the issuance or review specified by this 79238
section, the director may condition the issuance or review on the 79239
payment by the person receiving the issuance or review of, in 79240
addition to the fee specified by this section, the amount, or any 79241
portion thereof, in excess of the fee specified under this 79242
section. The director shall not so condition issuances for which 79243
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 79244
section. 79245

(V) Except as provided in divisions (L), (M), and (P) of this section or unless otherwise prescribed by a rule of the director adopted pursuant to Chapter 119. of the Revised Code, all fees required by this section are payable within thirty days after the issuance of an invoice for the fee by the director or the effective date of the issuance of the license, permit, variance, plan approval, or certification. If payment is late, the person responsible for payment of the fee shall pay an additional ten per cent of the amount due for each month that it is late.

(W) As used in this section, "fuel-burning equipment," "fuel-burning equipment input capacity," "incinerator," "incinerator input capacity," "process," "process weight rate," "storage tank," "gasoline dispensing facility," "dry cleaning facility," "design flow discharge," and "new source treatment works" have the meanings ascribed to those terms by applicable rules or standards adopted by the director under Chapter 3704. or 6111. of the Revised Code.

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), and (J) of this section, and in any other provision of this section pertaining to fees paid pursuant to Chapter 3704. of the Revised Code:

(1) "Facility," "federal Clean Air Act," "person," and "Title V permit" have the same meanings as in section 3704.01 of the Revised Code.

(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least:

(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;

(b) Reviewing and acting on any application for a Title V

permit, permit revision, or permit renewal, including the 79277
development of an applicable requirement as part of the processing 79278
of a permit, permit revision, or permit renewal; 79279

(c) Administering the permit program, including the 79280
supporting and tracking of permit applications, compliance 79281
certification, and related data entry; 79282

(d) Determining which sources are subject to the program and 79283
implementing and enforcing the terms of any Title V permit, not 79284
including any court actions or other formal enforcement actions; 79285

(e) Emission and ambient monitoring; 79286

(f) Modeling, analyses, or demonstrations; 79287

(g) Preparing inventories and tracking emissions; 79288

(h) Providing direct and indirect support to small business 79289
stationary sources to determine and meet their obligations under 79290
the federal Clean Air Act pursuant to the small business 79291
stationary source technical and environmental compliance 79292
assistance program required by section 507 of that act and 79293
established in sections 3704.18, 3704.19, and 3706.19 of the 79294
Revised Code. 79295

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) 79296
of this section, each sewage sludge facility shall pay a 79297
nonrefundable annual sludge fee equal to three dollars and fifty 79298
cents per dry ton of sewage sludge, including the dry tons of 79299
sewage sludge in materials derived from sewage sludge, that the 79300
sewage sludge facility treats or disposes of in this state. The 79301
annual volume of sewage sludge treated or disposed of by a sewage 79302
sludge facility shall be calculated using the first day of January 79303
through the thirty-first day of December of the calendar year 79304
preceding the date on which payment of the fee is due. 79305

(2)(a) Except as provided in division (Y)(2)(d) of this 79306

section, each sewage sludge facility shall pay a minimum annual
sewage sludge fee of one hundred dollars. 79307
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(b) The annual sludge fee required to be paid by a sewage
sludge facility that treats or disposes of exceptional quality
sludge in this state shall be thirty-five per cent less per dry
ton of exceptional quality sludge than the fee assessed under
division (Y)(1) of this section, subject to the following
exceptions: 79309
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(i) Except as provided in division (Y)(2)(d) of this section,
a sewage sludge facility that treats or disposes of exceptional
quality sludge shall pay a minimum annual sewage sludge fee of one
hundred dollars. 79315
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(ii) A sewage sludge facility that treats or disposes of
exceptional quality sludge shall not be required to pay the annual
sludge fee for treatment or disposal in this state of exceptional
quality sludge generated outside of this state and contained in
bags or other containers not greater than one hundred pounds in
capacity. 79319
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A thirty-five per cent reduction for exceptional quality
sludge applies to the maximum annual fees established under
division (Y)(3) of this section. 79325
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(c) A sewage sludge facility that transfers sewage sludge to
another sewage sludge facility in this state for further treatment
prior to disposal in this state shall not be required to pay the
annual sludge fee for the tons of sewage sludge that have been
transferred. In such a case, the sewage sludge facility that
disposes of the sewage sludge shall pay the annual sludge fee.
However, the facility transferring the sewage sludge shall pay the
one-hundred-dollar minimum fee required under division (Y)(2)(a)
of this section. 79328
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In the case of a sewage sludge facility that treats sewage 79337

sludge in this state and transfers it out of this state to another 79338
entity for disposal, the sewage sludge facility in this state 79339
shall be required to pay the annual sludge fee for the tons of 79340
sewage sludge that have been transferred. 79341

(d) A sewage sludge facility that generates sewage sludge 79342
resulting from an average daily discharge flow of less than five 79343
thousand gallons per day is not subject to the fees assessed under 79344
division (Y) of this section. 79345

(3) No sewage sludge facility required to pay the annual 79346
sludge fee shall be required to pay more than the maximum annual 79347
fee for each disposal method that the sewage sludge facility uses. 79348
The maximum annual fee does not include the additional amount that 79349
may be charged under division (Y)(5) of this section for late 79350
payment of the annual sludge fee. The maximum annual fee for the 79351
following methods of disposal of sewage sludge is as follows: 79352

(a) Incineration: five thousand dollars; 79353

(b) Preexisting land reclamation project or disposal in a 79354
landfill: five thousand dollars; 79355

(c) Land application, land reclamation, surface disposal, or 79356
any other disposal method not specified in division (Y)(3)(a) or 79357
(b) of this section: twenty thousand dollars. 79358

(4)(a) In the case of an entity that generates sewage sludge 79359
or a sewage sludge facility that treats sewage sludge and 79360
transfers the sewage sludge to an incineration facility for 79361
disposal, the incineration facility, and not the entity generating 79362
the sewage sludge or the sewage sludge facility treating the 79363
sewage sludge, shall pay the annual sludge fee for the tons of 79364
sewage sludge that are transferred. However, the entity or 79365
facility generating or treating the sewage sludge shall pay the 79366
one-hundred-dollar minimum fee required under division (Y)(2)(a) 79367
of this section. 79368

(b) In the case of an entity that generates sewage sludge and transfers the sewage sludge to a landfill for disposal or to a sewage sludge facility for land reclamation or surface disposal, the entity generating the sewage sludge, and not the landfill or sewage sludge facility, shall pay the annual sludge fee for the tons of sewage sludge that are transferred.

(5) Not later than the first day of April of the calendar year following March 17, 2000, and each first day of April thereafter, the director shall issue invoices to persons who are required to pay the annual sludge fee. The invoice shall identify the nature and amount of the annual sludge fee assessed and state the first day of May as the deadline for receipt by the director of objections regarding the amount of the fee and the first day of July as the deadline for payment of the fee.

Not later than the first day of May following receipt of an invoice, a person required to pay the annual sludge fee may submit objections to the director concerning the accuracy of information regarding the number of dry tons of sewage sludge used to calculate the amount of the annual sludge fee or regarding whether the sewage sludge qualifies for the exceptional quality sludge discount established in division (Y)(2)(b) of this section. The director may consider the objections and adjust the amount of the fee to ensure that it is accurate.

If the director does not adjust the amount of the annual sludge fee in response to a person's objections, the person may appeal the director's determination in accordance with Chapter 119. of the Revised Code.

Not later than the first day of June, the director shall notify the objecting person regarding whether the director has found the objections to be valid and the reasons for the finding. If the director finds the objections to be valid and adjusts the amount of the annual sludge fee accordingly, the director shall

issue with the notification a new invoice to the person 79401
identifying the amount of the annual sludge fee assessed and 79402
stating the first day of July as the deadline for payment. 79403

Not later than the first day of July, any person who is 79404
required to do so shall pay the annual sludge fee. Any person who 79405
is required to pay the fee, but who fails to do so on or before 79406
that date shall pay an additional amount that equals ten per cent 79407
of the required annual sludge fee. 79408

(6) The director shall transmit all moneys collected under 79409
division (Y) of this section to the treasurer of state for deposit 79410
into the surface water protection fund created in section 6111.038 79411
of the Revised Code. The moneys shall be used to defray the costs 79412
of administering and enforcing provisions in Chapter 6111. of the 79413
Revised Code and rules adopted under it that govern the use, 79414
storage, treatment, or disposal of sewage sludge. 79415

(7) Beginning in fiscal year 2001, and every two years 79416
thereafter, the director shall review the total amount of moneys 79417
generated by the annual sludge fees to determine if that amount 79418
exceeded six hundred thousand dollars in either of the two 79419
preceding fiscal years. If the total amount of moneys in the fund 79420
exceeded six hundred thousand dollars in either fiscal year, the 79421
director, after review of the fee structure and consultation with 79422
affected persons, shall issue an order reducing the amount of the 79423
fees levied under division (Y) of this section so that the 79424
estimated amount of moneys resulting from the fees will not exceed 79425
six hundred thousand dollars in any fiscal year. 79426

If, upon review of the fees under division (Y)(7) of this 79427
section and after the fees have been reduced, the director 79428
determines that the total amount of moneys collected and 79429
accumulated is less than six hundred thousand dollars, the 79430
director, after review of the fee structure and consultation with 79431
affected persons, may issue an order increasing the amount of the 79432

fees levied under division (Y) of this section so that the 79433
estimated amount of moneys resulting from the fees will be 79434
approximately six hundred thousand dollars. Fees shall never be 79435
increased to an amount exceeding the amount specified in division 79436
(Y)(7) of this section. 79437

Notwithstanding section 119.06 of the Revised Code, the 79438
director may issue an order under division (Y)(7) of this section 79439
without the necessity to hold an adjudicatory hearing in 79440
connection with the order. The issuance of an order under this 79441
division is not an act or action for purposes of section 3745.04 79442
of the Revised Code. 79443

(8) As used in division (Y) of this section: 79444

(a) "Sewage sludge facility" means an entity that performs 79445
treatment on or is responsible for the disposal of sewage sludge. 79446

(b) "Sewage sludge" means a solid, semi-solid, or liquid 79447
residue generated during the treatment of domestic sewage in a 79448
treatment works as defined in section 6111.01 of the Revised Code. 79449
"Sewage sludge" includes, but is not limited to, scum or solids 79450
removed in primary, secondary, or advanced wastewater treatment 79451
processes. "Sewage sludge" does not include ash generated during 79452
the firing of sewage sludge in a sewage sludge incinerator, grit 79453
and screenings generated during preliminary treatment of domestic 79454
sewage in a treatment works, animal manure, residue generated 79455
during treatment of animal manure, or domestic septage. 79456

(c) "Exceptional quality sludge" means sewage sludge that 79457
meets all of the following qualifications: 79458

(i) Satisfies the class A pathogen standards in 40 C.F.R. 79459
503.32(a); 79460

(ii) Satisfies one of the vector attraction reduction 79461
requirements in 40 C.F.R. 503.33(b)(1) to (b)(8); 79462

- (iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13; 79463
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- (iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13. 79465
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- (d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge. 79467
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- (e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator. 79470
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- (f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil. 79473
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- (g) "Land reclamation" means the returning of disturbed land to productive use. 79478
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- (h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites. 79480
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- (i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device. 79484
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- (j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway. 79488
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- (k) "Annual sludge fee" means the fee assessed under division 79492

(Y)(1) of this section. 79493

(1) "Landfill" means a sanitary landfill facility, as defined 79494
in rules adopted under section 3734.02 of the Revised Code, that 79495
is licensed under section 3734.05 of the Revised Code. 79496

(m) "Preexisting land reclamation project" means a 79497
property-specific land reclamation project that has been in 79498
continuous operation for not less than five years pursuant to 79499
approval of the activity by the director and includes the 79500
implementation of a community outreach program concerning the 79501
activity. 79502

Sec. 3746.02. (A) Nothing in this chapter applies to any of 79503
the following: 79504

(1) Property for which a voluntary action under this chapter 79505
is precluded by federal law or regulations adopted under federal 79506
law, including, without limitation, any of the following federal 79507
laws or regulations adopted thereunder: 79508

(a) The "Federal Water Pollution Control Act Amendments of 79509
1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended; 79510

(b) The "Resource Conservation and Recovery Act of 1976," 90 79511
Stat. 2806, 42 U.S.C.A. 6921, as amended; 79512

(c) The "Toxic Substances Control Act," 90 Stat. 2003 (1976), 79513
15 U.S.C.A. 2601, as amended; 79514

(d) The "Comprehensive Environmental Response, Compensation, 79515
and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as 79516
amended; 79517

(e) The "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 79518
U.S.C.A. 300(f), as amended. 79519

(2) Those portions of property where closure of a hazardous 79520
waste facility or solid waste facility is required under Chapter 79521

3734. of the Revised Code or rules adopted under it; 79522

(3) ~~Property or~~ Except for a class C release as defined in 79523
section 3737.87 of the Revised Code, properties regardless of 79524
ownership that are subject to remediation rules adopted under the 79525
authority of the division of fire marshal in the department of 79526
commerce, including remediation rules adopted under sections 79527
3737.88, 3737.882, and 3737.889 of the Revised Code; 79528

(4) Property that is subject to Chapter 1509. of the Revised 79529
Code; 79530

(5) Any other property if the director of environmental 79531
protection has issued a letter notifying the owner or operator of 79532
the property that ~~he~~ the director will issue an enforcement order 79533
under Chapter 3704., 3734., or 6111. of the Revised Code, a 79534
release or threatened release of a hazardous substance or 79535
petroleum from or at the property poses a substantial threat to 79536
public health or safety or the environment, and the person subject 79537
to the order does not present sufficient evidence to the director 79538
that ~~he~~ the person has entered into the voluntary action program 79539
under this chapter and is proceeding expeditiously to address that 79540
threat. For the purposes of this division, the evidence 79541
constituting sufficient evidence of entry into the voluntary 79542
action program under this chapter shall be defined by the director 79543
by rules adopted under section 3746.04 of the Revised Code. Until 79544
such time as the director has adopted those rules, the director, 79545
at a minimum, shall consider the existence of a contract with a 79546
certified professional to appropriately respond to the threat 79547
named in the director's letter informing the person of ~~his~~ the 79548
director's intent to issue an enforcement order and the 79549
availability of financial resources to complete the contract to be 79550
sufficient evidence of entry into the program. 79551

(B) The application of any provision of division (A) of this 79552
section to a portion of property does not preclude participation 79553

in the voluntary action program under this chapter in connection 79554
with other portions of the property where those provisions do not 79555
apply. 79556

(C) As used in this section, "property" means any parcel of 79557
real property, or portion thereof, and any improvements thereto. 79558

Sec. 3750.081. (A) Notwithstanding any provision in this 79559
chapter to the contrary, an owner or operator of a facility that 79560
is regulated under Chapter 1509. of the Revised Code who has filed 79561
a log in accordance with section 1509.10 of the Revised Code and a 79562
production statement in accordance with section 1509.11 of the 79563
Revised Code shall be deemed to have satisfied all of the 79564
inventory, notification, listing, and other submission and filing 79565
requirements established under this chapter, except for the 79566
release reporting requirements established under section 3750.06 79567
of the Revised Code. 79568

(B) The emergency response commission and every local 79569
emergency planning committee and fire department in this state 79570
shall establish a means by which to access, view, and retrieve 79571
information, through the use of the internet or a computer disk, 79572
from the electronic database maintained by the division of ~~mineral~~ 79573
oil and gas resources management in the department of natural 79574
resources in accordance with section 1509.23 of the Revised Code. 79575
With respect to facilities regulated under Chapter 1509. of the 79576
Revised Code, the database shall be the means of providing and 79577
receiving the information described in division (A) of this 79578
section. 79579

Sec. 3767.32. (A) No person, regardless of intent, shall 79580
deposit litter or cause litter to be deposited on any public 79581
property, on private property not owned by ~~him~~ the person, or in 79582
or on waters of the state unless one of the following applies: 79583

(1) The person is directed to do so by a public official as 79584
part of a litter collection drive; 79585

(2) Except as provided in division (B) of this section, the 79586
person deposits the litter in a litter receptacle in a manner that 79587
prevents its being carried away by the elements; 79588

(3) The person is issued a permit or license covering the 79589
litter pursuant to Chapter 3734. or 6111. of the Revised Code. 79590

(B) No person, without privilege to do so, shall knowingly 79591
deposit litter, or cause it to be deposited, in a litter 79592
receptacle located on any public property or on any private 79593
property not owned by ~~him~~ the person unless one of the following 79594
applies: 79595

(1) The litter was generated or located on the property on 79596
which the litter receptacle is located; 79597

(2) The person is directed to do so by a public official as 79598
part of a litter collection drive; 79599

(3) The person is directed to do so by a person whom ~~he~~ the 79600
person reasonably believes to have the privilege to use the litter 79601
receptacle; 79602

(4) The litter consists of any of the following: 79603

(a) The contents of a litter bag or container of a type and 79604
size customarily carried and used in a motor vehicle; 79605

(b) The contents of an ash tray of a type customarily 79606
installed or carried and used in a motor vehicle; 79607

(c) Beverage containers and food sacks, wrappings, and 79608
containers of a type and in an amount that reasonably may be 79609
expected to be generated during routine commuting or business or 79610
recreational travel by a motor vehicle; 79611

(d) Beverage containers, food sacks, wrappings, containers, 79612
and other materials of a type and in an amount that reasonably may 79613

be expected to be generated during a routine day by a person and 79614
deposited in a litter receptacle by a casual passerby. 79615

(C)(1) As used in division (B)(1) of this section, "public 79616
property" includes any private property open to the public for the 79617
conduct of business, the provision of a service, or upon the 79618
payment of a fee, but does not include any private property to 79619
which the public otherwise does not have a right of access. 79620

(2) As used in division (B)(4) of this section, "casual 79621
passerby" means a person who does not have depositing litter in a 79622
litter receptacle as ~~his~~ the person's primary reason for traveling 79623
to or by the property on which the litter receptacle is located. 79624

(D) As used in this section: 79625

(1) "Litter" means garbage, trash, waste, rubbish, ashes, 79626
cans, bottles, wire, paper, cartons, boxes, automobile parts, 79627
furniture, glass, or anything else of an unsightly or unsanitary 79628
nature. 79629

(2) "Deposit" means to throw, drop, discard, or place. 79630

(3) "Litter receptacle" means a dumpster, trash can, trash 79631
bin, garbage can, or similar container in which litter is 79632
deposited for removal. 79633

(E) This section may be enforced by any sheriff, deputy 79634
sheriff, police officer of a municipal corporation, police 79635
constable or officer of a township, or township or joint police 79636
district, wildlife officer, park officer, forest officer, preserve 79637
officer, conservancy district police officer, inspector of 79638
nuisances of a county, or any other law enforcement officer within 79639
~~his~~ the law enforcement officer's jurisdiction. 79640

Sec. 3769.08. (A) Any person holding a permit to conduct a 79641
horse-racing meeting may provide a place in the race meeting 79642
grounds or enclosure at which the permit holder may conduct and 79643

supervise the pari-mutuel system of wagering by patrons of legal age on the live racing programs and simulcast racing programs conducted by the permit holder.

The pari-mutuel method of wagering upon the live racing programs and simulcast racing programs held at or conducted within such race track, and at the time of such horse-racing meeting, or at other times authorized by the state racing commission, shall not be unlawful. No other place, except that provided and designated by the permit holder and except as provided in section 3769.26 of the Revised Code, nor any other method or system of betting or wagering, except the pari-mutuel system, shall be used or permitted by the permit holder; nor, except as provided in section 3769.089 or 3769.26 of the Revised Code, shall the pari-mutuel system of wagering be conducted by the permit holder on any races except the races at the race track, grounds, or enclosure for which the person holds a permit. Each permit holder may retain as a commission an amount not to exceed eighteen per cent of the total of all moneys wagered.

The pari-mutuel wagering authorized by this section is subject to sections 3769.25 to 3769.28 of the Revised Code.

(B) At the close of each racing day, each permit holder authorized to conduct thoroughbred racing, out of the amount retained on that day by the permit holder, shall pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all moneys wagered on live racing programs on that day and shall separately compute and pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all money wagered on simulcast racing programs on that day:

(1) One per cent of the first two hundred thousand dollars

wagered, or any part of that amount; 79675

(2) Two per cent of the next one hundred thousand dollars 79676
wagered, or any part of that amount; 79677

(3) Three per cent of the next one hundred thousand dollars 79678
wagered, or any part of that amount; 79679

(4) Four per cent of all sums over four hundred thousand 79680
dollars wagered. 79681

Except as otherwise provided in section 3769.089 of the 79682
Revised Code, each permit holder authorized to conduct 79683
thoroughbred racing shall use for purse money a sum equal to fifty 79684
per cent of the pari-mutuel revenues retained by the permit holder 79685
as a commission after payment of the state tax. This fifty per 79686
cent payment shall be in addition to the purse distribution from 79687
breakage specified in this section. 79688

Subject to division (M) of this section, from the moneys paid 79689
to the tax commissioner by thoroughbred racing permit holders, 79690
one-half of one per cent of the total of all moneys so wagered on 79691
a racing day shall be paid into the Ohio fairs fund created by 79692
section 3769.082 of the Revised Code, one and one-eighth per cent 79693
of the total of all moneys so wagered on a racing day shall be 79694
paid into the Ohio thoroughbred race fund created by section 79695
3769.083 of the Revised Code, and one-quarter of one per cent of 79696
the total of all moneys wagered on a racing day by each permit 79697
holder shall be paid into the state racing commission operating 79698
fund created by section 3769.03 of the Revised Code. The required 79699
payment to the state racing commission operating fund does not 79700
apply to county and independent fairs and agricultural societies. 79701
The remaining moneys may be retained by the permit holder, except 79702
as provided in this section with respect to the odd cents 79703
redistribution. Amounts paid into the PASSPORT nursing home 79704
franchise permit fee fund pursuant to this section and section 79705

3769.26 of the Revised Code shall be used solely for the support 79706
of the PASSPORT program as determined in appropriations made by 79707
the general assembly. If the PASSPORT program is abolished, the 79708
amount that would have been paid to the PASSPORT nursing home
franchise permit fee fund under this chapter shall be paid to the 79709
general revenue fund of the state. As used in this chapter, 79710
"PASSPORT program" means the PASSPORT program created under 79711
section 173.40 of the Revised Code. 79712
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The total amount paid to the Ohio thoroughbred race fund 79714
under this section and division (A) of section 3769.087 of the 79715
Revised Code shall not exceed by more than six per cent the total 79716
amount paid to this fund under this section and that section 79717
during the immediately preceding calendar year. 79718

Each year, the total amount calculated for payment into the 79719
Ohio fairs fund under this division, division (C) of this section, 79720
and division (A) of section 3769.087 of the Revised Code shall be 79721
an amount calculated using the percentages specified in this 79722
division, division (C) of this section, and division (A) of 79723
section 3769.087 of the Revised Code. 79724

A permit holder may contract with a thoroughbred horsemen's 79725
organization for the organization to act as a representative of 79726
all thoroughbred owners and trainers participating in a 79727
horse-racing meeting conducted by the permit holder. A 79728
"thoroughbred horsemen's organization" is any corporation or 79729
association that represents, through membership or otherwise, more 79730
than one-half of the aggregate of all thoroughbred owners and 79731
trainers who were licensed and actively participated in racing 79732
within this state during the preceding calendar year. Except as 79733
otherwise provided in this paragraph, any moneys received by a 79734
thoroughbred horsemen's organization shall be used exclusively for 79735
the benefit of thoroughbred owners and trainers racing in this 79736
state through the administrative purposes of the organization, 79737

benevolent activities on behalf of the horsemen, promotion of the horsemen's rights and interests, and promotion of equine research. A thoroughbred horsemen's organization may expend not more than an aggregate of five per cent of its annual gross receipts, or a larger amount as approved by the organization, for dues, assessments, and other payments to all other local, national, or international organizations having as their primary purposes the promotion of thoroughbred horse racing, thoroughbred horsemen's rights, and equine research.

(C) Except as otherwise provided in division (B) of this section, at the close of each racing day, each permit holder authorized to conduct harness or quarter horse racing, out of the amount retained that day by the permit holder, shall pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all moneys wagered on live racing programs and shall separately compute and pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all money wagered on simulcast racing programs on that day:

(1) One per cent of the first two hundred thousand dollars wagered, or any part of that amount;

(2) Two per cent of the next one hundred thousand dollars wagered, or any part of that amount;

(3) Three per cent of the next one hundred thousand dollars wagered, or any part of that amount;

(4) Four per cent of all sums over four hundred thousand dollars wagered.

Except as otherwise provided in division (B) and subject to division (M) of this section, from the moneys paid to the tax commissioner by permit holders authorized to conduct harness or quarter horse racing, one-half of one per cent of all moneys

wagered on that racing day shall be paid into the Ohio fairs fund; 79769
from the moneys paid to the tax commissioner by permit holders 79770
authorized to conduct harness racing, five-eighths of one per cent 79771
of all moneys wagered on that racing day shall be paid into the 79772
Ohio standardbred development fund; and from the moneys paid to 79773
the tax commissioner by permit holders authorized to conduct 79774
quarter horse racing, five-eighths of one per cent of all moneys 79775
wagered on that racing day shall be paid into the Ohio quarter 79776
horse development fund. 79777

(D) In addition, subject to division (M) of this section, 79778
beginning on January 1, 1996, from the money paid to the tax 79779
commissioner as a tax under this section and division (A) of 79780
section 3769.087 of the Revised Code by harness horse permit 79781
holders, one-half of one per cent of the amount wagered on a 79782
racing day shall be paid into the Ohio standardbred development 79783
fund. Beginning January 1, 1998, the payment to the Ohio 79784
standardbred development fund required under this division does 79785
not apply to county agricultural societies or independent 79786
agricultural societies. 79787

The total amount paid to the Ohio standardbred development 79788
fund under this division, division (C) of this section, and 79789
division (A) of section 3769.087 of the Revised Code and the total 79790
amount paid to the Ohio quarter horse development fund under this 79791
division and division (A) of that section shall not exceed by more 79792
than six per cent the total amount paid into the fund under this 79793
division, division (C) of this section, and division (A) of 79794
section 3769.087 of the Revised Code in the immediately preceding 79795
calendar year. 79796

(E) Subject to division (M) of this section, from the money 79797
paid as a tax under this chapter by harness and quarter horse 79798
permit holders, one-quarter of one per cent of the total of all 79799
moneys wagered on a racing day by each permit holder shall be paid 79800

into the state racing commission operating fund created by section 79801
3769.03 of the Revised Code. This division does not apply to 79802
county and independent fairs and agricultural societies. 79803

(F) Except as otherwise provided in section 3769.089 of the 79804
Revised Code, each permit holder authorized to conduct harness 79805
racing shall pay to the harness horsemen's purse pool a sum equal 79806
to fifty per cent of the pari-mutuel revenues retained by the 79807
permit holder as a commission after payment of the state tax. This 79808
fifty per cent payment is to be in addition to the purse 79809
distribution from breakage specified in this section. 79810

(G) In addition, each permit holder authorized to conduct 79811
harness racing shall be allowed to retain the odd cents of all 79812
redistribution to be made on all mutual contributions exceeding a 79813
sum equal to the next lowest multiple of ten. 79814

Forty per cent of that portion of that total sum of such odd 79815
cents shall be used by the permit holder for purse money for Ohio 79816
sired, bred, and owned colts, for purse money for Ohio bred 79817
horses, and for increased purse money for horse races. Upon the 79818
formation of the corporation described in section 3769.21 of the 79819
Revised Code to establish a harness horsemen's health and 79820
retirement fund, twenty-five per cent of that portion of that 79821
total sum of odd cents shall be paid at the close of each racing 79822
day by the permit holder to that corporation to establish and fund 79823
the health and retirement fund. Until that corporation is formed, 79824
that twenty-five per cent shall be paid at the close of each 79825
racing day by the permit holder to the tax commissioner or the tax 79826
commissioner's agent in the county seat of the county in which the 79827
permit holder operates race meetings. The remaining thirty-five 79828
per cent of that portion of that total sum of odd cents shall be 79829
retained by the permit holder. 79830

(H) In addition, each permit holder authorized to conduct 79831
thoroughbred racing shall be allowed to retain the odd cents of 79832

all redistribution to be made on all mutuel contributions 79833
exceeding a sum equal to the next lowest multiple of ten. Twenty 79834
per cent of that portion of that total sum of such odd cents shall 79835
be used by the permit holder for increased purse money for horse 79836
races. Upon the formation of the corporation described in section 79837
3769.21 of the Revised Code to establish a thoroughbred horsemen's 79838
health and retirement fund, forty-five per cent of that portion of 79839
that total sum of odd cents shall be paid at the close of each 79840
racing day by the permit holder to that corporation to establish 79841
and fund the health and retirement fund. Until that corporation is 79842
formed, that forty-five per cent shall be paid by the permit 79843
holder to the tax commissioner or the tax commissioner's agent in 79844
the county seat of the county in which the permit holder operates 79845
race meetings, at the close of each racing day. The remaining 79846
thirty-five per cent of that portion of that total sum of odd 79847
cents shall be retained by the permit holder. 79848

(I) In addition, each permit holder authorized to conduct 79849
quarter horse racing shall be allowed to retain the odd cents of 79850
all redistribution to be made on all mutuel contributions 79851
exceeding a sum equal to the next lowest multiple of ten, subject 79852
to a tax of twenty-five per cent on that portion of the total sum 79853
of such odd cents that is in excess of two thousand dollars during 79854
a calendar year, which tax shall be paid at the close of each 79855
racing day by the permit holder to the tax commissioner or the tax 79856
commissioner's agent in the county seat of the county within which 79857
the permit holder operates race meetings. Forty per cent of that 79858
portion of that total sum of such odd cents shall be used by the 79859
permit holder for increased purse money for horse races. The 79860
remaining thirty-five per cent of that portion of that total sum 79861
of odd cents shall be retained by the permit holder. 79862

(J)(1) To encourage the improvement of racing facilities for 79863
the benefit of the public, breeders, and horse owners, and to 79864

increase the revenue to the state from the increase in pari-mutuel 79865
wagering resulting from those improvements, the taxes paid by a 79866
permit holder to the state as provided for in this chapter shall 79867
be reduced by three-fourths of one per cent of the total amount 79868
wagered for those permit holders who make capital improvements to 79869
existing race tracks or construct new race tracks. The percentage 79870
of the reduction that may be taken each racing day shall equal 79871
seventy-five per cent of the taxes levied under divisions (B) and 79872
(C) of this section and section 3769.087 of the Revised Code, and 79873
division (F)(2) of section 3769.26 of the Revised Code, as 79874
applicable, divided by the calculated amount each fund should 79875
receive under divisions (B) and (C) of this section and section 79876
3769.087 of the Revised Code, and division (F)(2) of section 79877
3769.26 of the Revised Code and the reduction provided for in this 79878
division. If the resulting percentage is less than one, that 79879
percentage shall be multiplied by the amount of the reduction 79880
provided for in this division. Otherwise, the permit holder shall 79881
receive the full reduction provided for in this division. The 79882
amount of the allowable reduction not received shall be carried 79883
forward and applied against future tax liability. After any 79884
reductions expire, any reduction carried forward shall be treated 79885
as a reduction as provided for in this division. 79886

If more than one permit holder is authorized to conduct 79887
racing at the facility that is being built or improved, the cost 79888
of the new race track or capital improvement shall be allocated 79889
between or among all the permit holders in the ratio that the 79890
permit holders' number of racing days bears to the total number of 79891
racing days conducted at the facility. 79892

A reduction for a new race track or a capital improvement 79893
shall start from the day racing is first conducted following the 79894
date actual construction of the new race track or each capital 79895
improvement is completed and the construction cost has been 79896

approved by the racing commission, unless otherwise provided in 79897
this section. A reduction for a new race track or a capital 79898
improvement shall continue for a period of twenty-five years for 79899
new race tracks and for fifteen years for capital improvements if 79900
the construction of the capital improvement or new race track 79901
commenced prior to March 29, 1988, and for a period of ten years 79902
for new race tracks or capital improvements if the construction of 79903
the capital improvement or new race track commenced on or after 79904
March 29, 1988, but before ~~the effective date of this amendment~~ 79905
June 6, 2001, or until the total tax reduction reaches seventy per 79906
cent of the approved cost of the new race track or capital 79907
improvement, as allocated to each permit holder, whichever occurs 79908
first. A reduction for a new race track or a capital improvement 79909
approved after ~~the effective date of this amendment~~ June 6, 2001, 79910
shall continue until the total tax reduction reaches one hundred 79911
per cent of the approved cost of the new race track or capital 79912
improvement, as allocated to each permit holder. 79913

A reduction granted for a new race track or a capital 79914
improvement, the application for which was approved by the racing 79915
commission after March 29, 1988, but before ~~the effective date of~~ 79916
~~this amendment~~ June 6, 2001, shall not commence nor shall the 79917
ten-year period begin to run until all prior tax reductions with 79918
respect to the same race track have ended. The total tax reduction 79919
because of capital improvements shall not during any one year 79920
exceed for all permit holders using any one track three-fourths of 79921
one per cent of the total amount wagered, regardless of the number 79922
of capital improvements made. Several capital improvements to a 79923
race track may be consolidated in an application if the racing 79924
commission approved the application prior to March 29, 1988. No 79925
permit holder may receive a tax reduction for a capital 79926
improvement approved by the racing commission on or after March 79927
29, 1988, at a race track until all tax reductions have ended for 79928
all prior capital improvements approved by the racing commission 79929

under this section or section 3769.20 of the Revised Code at that 79930
race track. If there are two or more permit holders operating 79931
meetings at the same track, they may consolidate their 79932
applications. The racing commission shall notify the tax 79933
commissioner when the reduction of tax begins and when it ends. 79934

Each fiscal year the racing commission shall submit a report 79935
to the tax commissioner, the office of budget and management, and 79936
the legislative service commission. The report shall identify each 79937
capital improvement project undertaken under this division and in 79938
progress at each race track, indicate the total cost of each 79939
project, state the tax reduction that resulted from each project 79940
during the immediately preceding fiscal year, estimate the tax 79941
reduction that will result from each project during the current 79942
fiscal year, state the total tax reduction that resulted from all 79943
such projects at all race tracks during the immediately preceding 79944
fiscal year, and estimate the total tax reduction that will result 79945
from all such projects at all race tracks during the current 79946
fiscal year. 79947

(2) In order to qualify for the reduction in tax, a permit 79948
holder shall apply to the racing commission in such form as the 79949
commission may require and shall provide full details of the new 79950
race track or capital improvement, including a schedule for its 79951
construction and completion, and set forth the costs and expenses 79952
incurred in connection with it. The racing commission shall not 79953
approve an application unless the permit holder shows that a 79954
contract for the new race track or capital improvement has been 79955
let under an unrestricted competitive bidding procedure, unless 79956
the contract is exempted by the controlling board because of its 79957
unusual nature. In determining whether to approve an application, 79958
the racing commission shall consider whether the new race track or 79959
capital improvement will promote the safety, convenience, and 79960
comfort of the racing public and horse owners and generally tend 79961

towards the improvement of racing in this state. 79962

(3) If a new race track or capital improvement is approved by 79963
the racing commission and construction has started, the tax 79964
reduction may be authorized by the commission upon presentation of 79965
copies of paid bills in excess of one hundred thousand dollars or 79966
ten per cent of the approved cost, whichever is greater. After the 79967
initial authorization, the permit holder shall present copies of 79968
paid bills. If the permit holder is in substantial compliance with 79969
the schedule for construction and completion of the new race track 79970
or capital improvement, the racing commission may authorize the 79971
continuation of the tax reduction upon the presentation of the 79972
additional paid bills. The total amount of the tax reduction 79973
authorized shall not exceed the percentage of the approved cost of 79974
the new race track or capital improvement specified in division 79975
(J)(1) of this section. The racing commission may terminate any 79976
tax reduction immediately if a permit holder fails to complete the 79977
new race track or capital improvement, or to substantially comply 79978
with the schedule for construction and completion of the new race 79979
track or capital improvement. If a permit holder fails to complete 79980
a new race track or capital improvement, the racing commission 79981
shall order the permit holder to repay to the state the total 79982
amount of tax reduced. The normal tax paid by the permit holder 79983
shall be increased by three-fourths of one per cent of the total 79984
amount wagered until the total amount of the additional tax 79985
collected equals the total amount of tax reduced. 79986

(4) As used in this section: 79987

(a) "Capital improvement" means an addition, replacement, or 79988
remodeling of a structural unit of a race track facility costing 79989
at least one hundred thousand dollars, including, but not limited 79990
to, the construction of barns used exclusively for the race track 79991
facility, backstretch facilities for horsemen, paddock facilities, 79992
new pari-mutuel and totalizator equipment and appurtenances to 79993

that equipment purchased by the track, new access roads, new 79994
parking areas, the complete reconstruction, reshaping, and 79995
leveling of the racing surface and appurtenances, the installation 79996
of permanent new heating or air conditioning, roof replacement or 79997
restoration, installations of a permanent nature forming a part of 79998
the track structure, and construction of buildings that are 79999
located on a permit holder's premises. "Capital improvement" does 80000
not include the cost of replacement of equipment that is not 80001
permanently installed, ordinary repairs, painting, and maintenance 80002
required to keep a race track facility in ordinary operating 80003
condition. 80004

(b) "New race track" includes the reconstruction of a race 80005
track damaged by fire or other cause that has been declared by the 80006
racing commission, as a result of the damage, to be an inadequate 80007
facility for the safe operation of horse racing. 80008

(c) "Approved cost" includes all debt service and interest 80009
costs that are associated with a capital improvement or new race 80010
track and that the racing commission approves for a tax reduction 80011
under division (J) of this section. 80012

(5) The racing commission shall not approve an application 80013
for a tax reduction under this section if it has reasonable cause 80014
to believe that the actions or negligence of the permit holder 80015
substantially contributed to the damage suffered by the track due 80016
to fire or other cause. The racing commission shall obtain any 80017
data or information available from a fire marshal, law enforcement 80018
official, or insurance company concerning any fire or other damage 80019
suffered by a track, prior to approving an application for a tax 80020
reduction. 80021

(6) The approved cost to which a tax reduction applies shall 80022
be determined by generally accepted accounting principles and 80023
verified by an audit of the permit holder's records upon 80024
completion of the project by the racing commission, or by an 80025

independent certified public accountant selected by the permit holder and approved by the commission. 80026
80027

(K) No other license or excise tax or fee, except as provided in sections 3769.01 to 3769.14 of the Revised Code, shall be assessed or collected from such licensee by any county, township, district, municipal corporation, or other body having power to assess or collect a tax or fee. That portion of the tax paid under this section by permit holders for racing conducted at and during the course of an agricultural exposition or fair, and that portion of the tax that would have been paid by eligible permit holders into the ~~PASSPORT~~ nursing home franchise permit fee fund as a result of racing conducted at and during the course of an agricultural exposition or fair, shall be deposited into the state treasury to the credit of the horse racing tax fund, which is hereby created for the use of the agricultural societies of the several counties in which the taxes originate. The state racing commission shall determine eligible permit holders for purposes of the preceding sentence, taking into account the breed of horse, the racing dates, the geographic proximity to the fair, and the best interests of Ohio racing. On the first day of any month on which there is money in the fund, the tax commissioner shall provide for payment to the treasurer of each agricultural society the amount of the taxes collected under this section upon racing conducted at and during the course of any exposition or fair conducted by the society. 80028
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(L) From the tax paid under this section by harness track permit holders, the tax commissioner shall pay into the Ohio thoroughbred race fund a sum equal to a percentage of the amount wagered upon which the tax is paid. The percentage shall be determined by the tax commissioner and shall be rounded to the nearest one-hundredth. The percentage shall be such that, when multiplied by the amount wagered upon which tax was paid by the 80051
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harness track permit holders in the most recent year for which 80058
final figures are available, it results in a sum that 80059
substantially equals the same amount of tax paid by the tax 80060
commissioner during that year into the Ohio fairs fund from taxes 80061
paid by thoroughbred permit holders. This division does not apply 80062
to county and independent fairs and agricultural societies. 80063

(M) Twenty-five per cent of the taxes levied on thoroughbred 80064
racing permit holders, harness racing permit holders, and quarter 80065
horse racing permit holders under this section, division (A) of 80066
section 3769.087 of the Revised Code, and division (F)(2) of 80067
section 3769.26 of the Revised Code shall be paid into the 80068
~~PASSPORT~~ nursing home franchise permit fee fund. The tax 80069
commissioner shall pay any money remaining, after the payment into 80070
the ~~PASSPORT~~ nursing home franchise permit fee fund and the 80071
reductions provided for in division (J) of this section and in 80072
section 3769.20 of the Revised Code, into the Ohio fairs fund, 80073
Ohio thoroughbred race fund, Ohio standardbred development fund, 80074
Ohio quarter horse fund, and state racing commission operating 80075
fund as prescribed in this section and division (A) of section 80076
3769.087 of the Revised Code. The tax commissioner shall 80077
thereafter use and apply the balance of the money paid as a tax by 80078
any permit holder to cover any shortage in the accounts of such 80079
funds resulting from an insufficient payment as a tax by any other 80080
permit holder. The moneys received by the tax commissioner shall 80081
be deposited weekly and paid by the tax commissioner into the 80082
funds to cover the total aggregate amount due from all permit 80083
holders to the funds, as calculated under this section and 80084
division (A) of section 3769.087 of the Revised Code, as 80085
applicable. If, after the payment into the ~~PASSPORT~~ nursing home 80086
franchise permit fee fund, sufficient funds are not available from 80087
the tax deposited by the tax commissioner to pay the required 80088
amounts into the Ohio fairs fund, Ohio standardbred development 80089
fund, Ohio thoroughbred race fund, Ohio quarter horse fund, and 80090

the state racing commission operating fund, the tax commissioner 80091
shall prorate on a proportional basis the amount paid to each of 80092
the funds. Any shortage to the funds as a result of a proration 80093
shall be applied against future deposits for the same calendar 80094
year when funds are available. After this application, the tax 80095
commissioner shall pay any remaining money paid as a tax by all 80096
permit holders into the ~~PASSPORT~~ nursing home franchise permit fee 80097
fund. This division does not apply to permit holders conducting 80098
racing at the course of an agricultural exposition or fair as 80099
described in division (K) of this section. 80100

Sec. 3769.20. (A) To encourage the renovation of existing 80101
racing facilities for the benefit of the public, breeders, and 80102
horse owners and to increase the revenue to the state from the 80103
increase in pari-mutuel wagering resulting from such improvement, 80104
the taxes paid by a permit holder to the state, in excess of the 80105
amount paid into the ~~PASSPORT~~ nursing home franchise permit fee 80106
fund, shall be reduced by one per cent of the total amount wagered 80107
for those permit holders who carry out a major capital improvement 80108
project. The percentage of the reduction that may be taken each 80109
racing day shall equal seventy-five per cent of the amount of the 80110
taxes levied under divisions (B) and (C) of section 3769.08, 80111
section 3769.087, and division (F)(2) of section 3769.26 of the 80112
Revised Code, as applicable, divided by the calculated amount each 80113
fund should receive under divisions (B) and (C) of section 80114
3769.08, section 3769.087, and division (F)(2) of section 3769.26 80115
of the Revised Code and the reduction provided for in this 80116
section. If the resulting percentage is less than one, that 80117
percentage shall be multiplied by the amount of the reduction 80118
provided for in this section. Otherwise, the permit holder shall 80119
receive the full reduction provided for in this section. The 80120
amount of the allowable reduction not received shall be carried 80121
forward and added to any other reduction balance and applied 80122

against future tax liability. After any reductions expire, any 80123
reduction carried forward shall be treated as a reduction as 80124
provided for in this section. If the amount of allowable reduction 80125
exceeds the amount of taxes derived from a permit holder, the 80126
amount of the allowable reduction not used may be carried forward 80127
and applied against future tax liability. 80128

If more than one permit holder is authorized to conduct 80129
racing at the facility that is being improved, the cost of the 80130
major capital improvement project shall be allocated between or 80131
among all the permit holders in the ratio that each permit 80132
holder's number of racing days bears to the total number of racing 80133
days conducted at the facility. 80134

A reduction for a major capital improvement project shall 80135
start from the day racing is first conducted following the date on 80136
which the major capital improvement project is completed and the 80137
construction cost has been approved by the state racing 80138
commission, except as otherwise provided in division (E) of this 80139
section, and shall continue until the total tax reduction equals 80140
the cost of the major capital improvement project plus debt 80141
service applicable to the project. In no event, however, shall any 80142
tax reduction, excluding any reduction balances, be permitted 80143
under this section after December 31, ~~2014~~ 2017. The total tax 80144
reduction because of the major capital improvement project shall 80145
not during any one year exceed for all permit holders using any 80146
one track one per cent of the total amount wagered. The racing 80147
commission shall notify the tax commissioner when the reduction of 80148
tax begins and when it ends. 80149

(B) Each fiscal year, the racing commission shall submit a 80150
report to the tax commissioner, the office of budget and 80151
management, and the legislative service commission. The report 80152
shall identify each capital improvement project undertaken under 80153

this section and in progress at each race track, indicate the 80154
total cost of each project, state the tax reduction that resulted 80155
from each project during the immediately preceding fiscal year, 80156
estimate the tax reduction that will result from each project 80157
during the current fiscal year, state the total tax reduction that 80158
resulted from all such projects at all race tracks during the 80159
immediately preceding fiscal year, and estimate the total tax 80160
reduction that will result from all such projects at all race 80161
tracks during the current fiscal year. 80162

(C) The tax reduction granted pursuant to this section shall 80163
be in addition to any tax reductions for capital improvements and 80164
new race tracks provided for in section 3769.08 of the Revised 80165
Code and approved by the racing commission. 80166

(D) In order to qualify for the reduction in tax, a permit 80167
holder shall apply to the racing commission in such form as the 80168
commission may require and shall provide full details of the major 80169
capital improvement project, including plans and specifications, a 80170
schedule for the project's construction and completion, and a 80171
breakdown of proposed costs. In addition, the permit holder shall 80172
have commenced construction of the major capital improvement 80173
project or shall have had the application for the project approved 80174
by the racing commission prior to March 29, 1988. The racing 80175
commission shall not approve an application unless the permit 80176
holder shows that a contract for the major capital improvement 80177
project has been let under an unrestricted competitive bidding 80178
procedure, unless the contract is exempted by the controlling 80179
board because of its unusual nature. In determining whether to 80180
approve an application, the racing commission shall consider 80181
whether the major capital improvement project will promote the 80182
safety, convenience, and comfort of the racing public and horse 80183
owners and generally tend toward the improvement of racing in this 80184
state. 80185

(E) If the major capital improvement project is approved by the racing commission and construction has started, the tax reduction may be authorized by the commission upon presentation of copies of paid bills in excess of five hundred thousand dollars. After the initial authorization, the permit holder shall present copies of paid bills in the amount of not less than five hundred thousand dollars. If the permit holder is in substantial compliance with the schedule for construction and completion of the major capital improvement project, the racing commission may authorize the continuance of the tax reduction upon the presentation of the additional paid bills in increments of five hundred thousand dollars. The racing commission may terminate the tax reduction if a permit holder fails to complete the major capital improvement project or fails to comply substantially with the schedule for construction and completion of the major capital improvement project. If the time for completion of the major capital improvement project is delayed by acts of God, strikes, or the unavailability of labor or materials, the time for completion as set forth in the schedule shall be extended by the period of the delay. If a permit holder fails to complete the major capital improvement project, the racing commission shall order the permit holder to repay to the state the total amount of tax reduced, unless the permit holder has spent at least six million dollars on the project. The normal tax paid by the permit holder under section 3769.08 of the Revised Code shall be increased by one per cent of the total amount wagered until the total amount of the additional tax collected equals the total amount of tax reduced. Any action taken by the racing commission pursuant to this section in terminating the tax adjustment or requiring repayment of the amount of tax reduced shall be subject to Chapter 119. of the Revised Code.

(F) As used in this section, "major capital improvement project" means the renovation, reconstruction, or remodeling,

costing at least six million dollars, of a race track facility, 80219
including, but not limited to, the construction of barns used 80220
exclusively for that race track facility, backstretch facilities 80221
for horsemen, paddock facilities, pari-mutuel and totalizator 80222
equipment and appurtenances to that equipment purchased by the 80223
track, new access roads, new parking areas, the complete 80224
reconstruction, reshaping, and leveling of the racing surface and 80225
appurtenances, grandstand enclosure, installation of permanent new 80226
heating or air conditioning, roof replacement, and installations 80227
of a permanent nature forming a part of the track structure. 80228

(G) The cost and expenses to which the tax reduction granted 80229
under this section applies shall be determined by generally 80230
accepted accounting principles and be verified by an audit of the 80231
permit holder's records, upon completion of the major capital 80232
improvement project, either by the racing commission or by an 80233
independent certified public accountant selected by the permit 80234
holder and approved by the commission. 80235

(H) This section and section 3769.201 of the Revised Code 80236
govern any tax reduction granted to a permit holder for the cost 80237
to the permit holder of any cleanup, repair, or improvement 80238
required as a result of damage caused by the 1997 Ohio river flood 80239
to the place, track, or enclosure for which the permit is issued. 80240

Sec. 3769.26. (A)(1) Except as otherwise provided in division 80241
(B) of this section, each track in existence on September 27, 80242
1994, regardless of the number of permit holders authorized to 80243
conduct race meetings at the track, may establish, with the 80244
approval of the state racing commission and the appropriate local 80245
legislative authority, not more than two satellite facilities at 80246
which it may conduct pari-mutuel wagering on horse races conducted 80247
either inside or outside this state and simulcast by a simulcast 80248
host to the satellite facilities. 80249

(2) Prior to a track's establishing satellite facilities 80250
under this section, the permit holders at that track shall agree 80251
among themselves regarding their respective rights and obligations 80252
with respect to those satellite facilities. 80253

(3)(a) Any track that desires to establish a satellite 80254
facility shall provide written notification of its intent to the 80255
state racing commission and to the appropriate local legislative 80256
authority that is required to approve the satellite facility, 80257
together with detailed plans and specifications for the satellite 80258
facility. The commission shall deliver copies of this notification 80259
to all other tracks in this state, and the commission shall, 80260
within forty-five days after receiving the notification, hold a 80261
hearing on the track's intent to establish a satellite facility. 80262
At this hearing the commission shall consider the evidence 80263
presented and determine whether the request for establishment of a 80264
satellite facility shall be approved. 80265

The commission shall not approve a track's request to 80266
establish a satellite facility if the owner of the premises where 80267
the satellite facility is proposed to be located or if the 80268
proposed operator of the satellite facility has been convicted of 80269
or has pleaded guilty to a gambling offense that is a felony or 80270
any other felony under the laws of this state, any other state, or 80271
the United States that the commission determines to be related to 80272
fitness to be the owner of such a premises or to be the operator 80273
of a satellite facility. As used in division (A)(3)(a) of this 80274
section, "gambling offense" has the same meaning as in section 80275
2915.01 of the Revised Code and "operator" means the individual 80276
who is responsible for the day-to-day operations of a satellite 80277
facility. The commission shall conduct a background investigation 80278
on each person who is the owner of a premises where a satellite 80279
facility is proposed to be located or who is proposed to be the 80280
operator or an employee of a satellite facility. The commission 80281

shall adopt rules in accordance with Chapter 119. of the Revised 80282
Code that specify the specific information the commission shall 80283
collect in conducting such a background investigation. 80284

No track shall knowingly contract with a person as the owner 80285
of the premises where a satellite facility is located, or 80286
knowingly employ a person as the operator or an employee of a 80287
satellite facility, who has been convicted of or pleaded guilty to 80288
a gambling offense that is a felony or any other felony under the 80289
laws of this state, any other state, or the United States that the 80290
commission determines to be related to fitness to be the owner of 80291
such a premises or to be the operator or an employee of a 80292
satellite facility. The commission may impose a fine in an amount 80293
not to exceed ten thousand dollars on any track that violates any 80294
of these prohibitions. 80295

(b) Each track that receives the notification described in 80296
division (A)(3)(a) of this section shall notify the commission and 80297
the track that desires to establish the satellite facility, within 80298
thirty days after receiving the notification from the commission, 80299
indicating whether or not it desires to participate in the joint 80300
ownership of the facility. Ownership shall be distributed equally 80301
among the tracks that choose to participate in the joint ownership 80302
of the facility unless the participating tracks agree to and 80303
contract otherwise. Tracks that fail to respond to the commission 80304
and the track that desires to establish the satellite facility 80305
within this thirty-day period regarding the ownership of the 80306
particular satellite facility are not eligible to participate in 80307
its ownership. 80308

(B) If, within three years after September 27, 1994, a track 80309
in existence on September 27, 1994, does not establish both of the 80310
satellite facilities it is authorized to establish under division 80311
(A) of this section, another track, with the approval of the 80312
racing commission, may establish in accordance with this section a 80313

number of additional satellite facilities that does not exceed the 80314
number of satellite facilities that the first track did not 80315
establish. However, no more than fourteen satellite facilities may 80316
be established in this state. 80317

(C) Except as otherwise provided in this division, each 80318
permit holder in this state shall allow the races that it 80319
conducts, and the races conducted outside this state that it 80320
receives as a simulcast host, to be simulcast to all satellite 80321
facilities operating in this state and shall take all action 80322
necessary to supply its simulcast and wagering information to 80323
these satellite facilities. A permit holder at a track where the 80324
average daily amount wagered for all race meetings during calendar 80325
year 1990 did not exceed two hundred fifty thousand dollars may 80326
elect not to simulcast its races to the satellite facilities. If a 80327
permit holder at such a track chooses to simulcast its races to 80328
satellite facilities, it shall allow its races to be simulcast to 80329
all satellite facilities operating in this state. Except as 80330
otherwise provided in this division, each satellite facility shall 80331
receive simulcasts of and conduct pari-mutuel wagering on all live 80332
racing programs being conducted at any track in this state and on 80333
all agreed simulcast racing programs, as provided in division (D) 80334
of section 3769.089 of the Revised Code, conducted in other states 80335
that are received by simulcast in this state, without regard to 80336
the breed of horse competing in the race or the time of day of the 80337
race. 80338

No satellite facility may receive simulcasts of horse races 80339
during the same hours that a county fair or independent fair 80340
located within the same county as the satellite facility is 80341
conducting pari-mutuel wagering on horse races at that county or 80342
independent fair. 80343

Except as otherwise provided in this division, the commission 80344
shall not approve the establishment of a satellite facility within 80345

a radius of fifty miles of any track. The commission may approve 80346
the establishment of a satellite facility at a location within a 80347
radius of at least thirty-five but not more than fifty miles from 80348
one or more tracks if all of the holders of permits issued for 80349
those tracks consent in writing to the establishment of the 80350
satellite facility. The commission may approve the establishment 80351
of a satellite facility at a location within a radius of 80352
thirty-five miles of more than one race track if all holders of 80353
permits issued for those tracks consent in writing to the 80354
establishment of the satellite facility and, if the tracks are 80355
located completely within one county and the proposed satellite 80356
facility will be located within that county, if both the 80357
legislative authority of the municipal corporation in that county 80358
with the largest population, and the appropriate legislative 80359
authority that is required to approve the satellite facility under 80360
division (A)(1) of this section, approve the establishment of the 80361
new satellite facility. The commission may approve the 80362
establishment of a satellite facility at a location within a 80363
radius of less than twenty miles from an existing satellite 80364
facility if the owner of the existing satellite facility consents 80365
in writing to the establishment of the new satellite facility. 80366

A satellite facility shall not receive simulcasts of horse 80367
races conducted outside this state on any day when no simulcast 80368
host is operating. 80369

(D) Each simulcast host is responsible for paying all costs 80370
associated with the up-link for simulcasts. Each satellite 80371
facility is responsible for paying all costs associated with the 80372
reception of simulcasts and the operation of the satellite 80373
facility. 80374

(E) All money wagered at the simulcast host, and all money 80375
wagered at all satellite facilities on races simulcast from the 80376
simulcast host, shall be included in a common pari-mutuel pool at 80377

the simulcast host. Except as otherwise provided in division 80378
(F)(6) of this section, the payment shall be the same for all 80379
winning tickets whether a wager is placed at a simulcast host or a 80380
satellite facility. Wagers placed at a satellite facility shall 80381
conform in denomination, character, terms, conditions, and in all 80382
other respects to wagers placed at the simulcast host for the same 80383
race. 80384

(F)(1) As used in division (F) of this section, "effective 80385
rate" means the effective gross tax percentage applicable at the 80386
simulcast host, determined in accordance with sections 3769.08 and 80387
3769.087 of the Revised Code, after combining the money wagered at 80388
the simulcast host with the money wagered at satellite facilities 80389
on races simulcast from the host track. 80390

(2) For the purposes of calculating the amount of taxes to be 80391
paid and the amount of commissions to be retained by permit 80392
holders, fifty per cent of the amount wagered at satellite 80393
facilities on a live racing program simulcast from a simulcast 80394
host shall be allocated to the permit holder's live race wagering 80395
at that simulcast host that conducts the live racing program, and 80396
fifty per cent of the amount wagered at satellite facilities on 80397
simulcast racing programs conducted outside this state shall be 80398
allocated to, and apportioned equally among, the permit holders 80399
acting as simulcast hosts for the out-of-state simulcast racing 80400
programs. The remainder of the amount wagered at a satellite 80401
facility on races simulcast from a simulcast host shall be 80402
allocated to the satellite facility. In computing the tax due on 80403
the amount allocated to the satellite facility, if there is more 80404
than one simulcast host for out-of-state simulcast racing 80405
programs, the effective rate applied by the satellite facility 80406
shall be the tax rate applicable to the simulcast host that pays 80407
the highest effective rate under section 3769.08 of the Revised 80408
Code on such simulcast racing programs. 80409

(3) The portion of the amount wagered that is allocated to a simulcast host under division (F)(2) of this section shall be treated, for the purposes of calculating the amount of taxes to be paid and commissions to be retained, as having been wagered at the simulcast host on a live racing program or on a simulcast racing program. The permit holder at the simulcast host shall pay, by check, draft, or money order to the state tax commissioner, as a tax, the tax specified in sections 3769.08 and 3769.087 of the Revised Code, as applicable, except that the tax shall be calculated using the effective rate, and the permit holder may retain as a commission the percentage of the amount wagered as specified in those sections. From the tax collected, the tax commissioner shall make distributions to the respective funds, and in the proper amounts, as required by sections 3769.08 and 3769.087 of the Revised Code, as applicable.

(4) From the portion of the amount wagered that is allocated to a satellite facility under division (F)(2) of this section, the satellite facility may retain as a commission the amount specified in section 3769.08 or 3769.087 of the Revised Code, as applicable. The portion of the amount wagered that is allocated to a satellite facility shall be subject to tax at the effective rate as follows:

(a) One per cent of such amount allocated to the satellite facility shall be paid as a tax each racing day to the tax commissioner for deposit into the ~~PASSPORT~~ nursing home franchise permit fee fund.

(b) The remaining balance of the taxes calculated at the effective rate, after payment of the tax specified in division (F)(4)(a) of this section, shall be retained by the satellite facility to pay for those costs associated with the reception of the simulcasts.

(5) From the commission retained by a satellite facility after the deduction of the tax paid at the effective rate under

division (F)(4) of this section, the satellite facility shall 80442
retain an amount equal to two and three-eighths per cent of the 80443
amount wagered that day on simulcast racing programs and the 80444
balance shall be divided as follows: 80445

(a) One-half shall be paid to the owner of the satellite 80446
facility; 80447

(b) One-half shall be paid to the state racing commission for 80448
deposit into the Ohio combined simulcast horse racing purse fund. 80449

(6) In addition to the commission retained under this 80450
section, a satellite facility shall retain two and one-half per 80451
cent of the amount that would otherwise be paid on each winning 80452
wager unless the retention of this amount would either cause or 80453
add to a minus pool. As used in division (F)(6) of this section, 80454
"minus pool" means a wagering pool in which a winning wager is 80455
paid off at less than one hundred ten per cent of the amount of 80456
the wager. The amount retained shall be paid each racing day to 80457
the tax commissioner for deposit into the ~~PASSPORT~~ nursing home
franchise permit fee fund. 80458
80459

(7) At the close of each day, each satellite facility shall 80460
pay, by check, draft, or money order, or by wire transfer of 80461
funds, out of the money retained on that day to the collection and 80462
settlement agent the required fee to be paid by the simulcast host 80463
to the tracks, racing associations, or state regulatory agencies 80464
located outside this state for simulcasts into this state computed 80465
and based on one-half of the amount wagered at the satellite 80466
facility that day on interstate simulcast racing programs. 80467

(G) No license, fee, or excise tax, other than as specified 80468
in division (F)(6) of this section, shall be assessed upon or 80469
collected from a satellite facility, the owners of a satellite 80470
facility, or the holders of permits issued for a track that has 80471
established a satellite facility by any county, township, 80472

municipal corporation, district, or other body having the 80473
authority to assess or collect a tax or fee. 80474

(H) In no case shall that portion of the commissions 80475
designated for purses from satellite facilities be less than that 80476
portion of those commissions designated for purses at the 80477
simulcast host. 80478

(I) It is the intention of the general assembly in enacting 80479
this section not to adversely affect the amounts paid into the 80480
Ohio thoroughbred race fund created under section 3769.083 of the 80481
Revised Code. Therefore, each track that acts as a simulcast host 80482
under this section shall calculate, on a semi-annual basis during 80483
calendar years 1994, 1995, and 1996, its average daily 80484
contribution to the Ohio thoroughbred race fund created under 80485
section 3769.083 of the Revised Code on those days on which the 80486
track conducted live horse racing. If this average daily 80487
contribution to the fund is less than the average daily 80488
contribution from the same track to the fund during the same 80489
six-month period of calendar year 1992, there shall be contributed 80490
to the fund an amount equal to the average daily shortfall 80491
multiplied by the number of days of live racing conducted during 80492
the six-month period in calendar year 1994, 1995, or 1996, as 80493
applicable. The amount of such contribution shall be allocated 80494
among the simulcast host, the purse program at the simulcast host, 80495
and the satellite facilities for which the track served as the 80496
simulcast host, on a pro rata basis in proportion to the amounts 80497
contributed by them to the fund during such six-month period in 80498
calendar year 1994, 1995, or 1996, as applicable. 80499

Sec. 3770.05. (A) As used in this section, "person" means any 80500
person, association, corporation, partnership, club, trust, 80501
estate, society, receiver, trustee, person acting in a fiduciary 80502
or representative capacity, instrumentality of the state or any of 80503

its political subdivisions, or any other combination of 80504
individuals meeting the requirements set forth in this section or 80505
established by rule or order of the state lottery commission. 80506

(B) The director of the state lottery commission may license 80507
any person as a lottery sales agent. No license shall be issued to 80508
any person or group of persons to engage in the sale of lottery 80509
tickets as the person's or group's sole occupation or business. 80510

Before issuing any license to a lottery sales agent, the 80511
director shall consider all of the following: 80512

(1) The financial responsibility and security of the 80513
applicant and the applicant's business or activity; 80514

(2) The accessibility of the applicant's place of business or 80515
activity to the public; 80516

(3) The sufficiency of existing licensed agents to serve the 80517
public interest; 80518

(4) The volume of expected sales by the applicant; 80519

(5) Any other factors pertaining to the public interest, 80520
convenience, or trust. 80521

(C) Except as otherwise provided in division (F) of this 80522
section, the director of the state lottery commission shall refuse 80523
to grant, or shall suspend or revoke, a license if the applicant 80524
or licensee: 80525

(1) Has been convicted of a felony or has been convicted of a 80526
crime involving moral turpitude; 80527

(2) Has been convicted of an offense that involves illegal 80528
gambling; 80529

(3) Has been found guilty of fraud or misrepresentation in 80530
any connection; 80531

(4) Has been found to have violated any rule or order of the 80532

commission; or 80533

(5) Has been convicted of illegal trafficking in supplemental 80534
nutrition assistance program benefits. 80535

(D) Except as otherwise provided in division (F) of this 80536
section, the director of the state lottery commission shall refuse 80537
to grant, or shall suspend or revoke, a license if the applicant 80538
or licensee is a corporation and any of the following applies: 80539

(1) Any of the corporation's directors, officers, or 80540
controlling shareholders has been found guilty of any of the 80541
activities specified in divisions (C)(1) to (5) of this section; 80542

(2) It appears to the director of the state lottery 80543
commission that, due to the experience, character, or general 80544
fitness of any director, officer, or controlling shareholder of 80545
the corporation, the granting of a license as a lottery sales 80546
agent would be inconsistent with the public interest, convenience, 80547
or trust; 80548

(3) The corporation is not the owner or lessee of the 80549
business at which it would conduct a lottery sales agency pursuant 80550
to the license applied for; 80551

(4) Any person, firm, association, or corporation other than 80552
the applicant or licensee shares or will share in the profits of 80553
the applicant or licensee, other than receiving dividends or 80554
distributions as a shareholder, or participates or will 80555
participate in the management of the affairs of the applicant or 80556
licensee. 80557

(E)(1) The director of the state lottery commission shall 80558
refuse to grant a license to an applicant for a lottery sales 80559
agent license and shall revoke a lottery sales agent license if 80560
the applicant or licensee is or has been convicted of a violation 80561
of division (A) or (C)(1) of section 2913.46 of the Revised Code. 80562

(2) The director shall refuse to grant a license to an applicant for a lottery sales agent license that is a corporation and shall revoke the lottery sales agent license of a corporation if the corporation is or has been convicted of a violation of division (A) or (C)(1) of section 2913.46 of the Revised Code.

(F) The director of the state lottery commission shall request the bureau of criminal identification and investigation, the department of public safety, or any other state, local, or federal agency to supply the director with the criminal records of any applicant for a lottery sales agent license, and may periodically request the criminal records of any person to whom a lottery sales agent license has been issued. At or prior to the time of making such a request, the director shall require an applicant or licensee to obtain fingerprint impressions on fingerprint cards prescribed by the superintendent of the bureau of criminal identification and investigation at a qualified law enforcement agency, and the director shall cause those fingerprint cards to be forwarded to the bureau of criminal identification and investigation, to the federal bureau of investigation, or to both bureaus. The commission shall assume the cost of obtaining the fingerprint cards.

The director shall pay to each agency supplying criminal records for each investigation a reasonable fee, as determined by the agency.

The commission may adopt uniform rules specifying time periods after which the persons described in divisions (C)(1) to (5) and (D)(1) to (4) of this section may be issued a license and establishing requirements for those persons to seek a court order to have records sealed in accordance with law.

(G)(1) Each applicant for a lottery sales agent license shall do both of the following:

(a) Pay fees to the state lottery commission, ~~at the time the~~ 80594
~~application is submitted, a fee in an amount that the director of~~ 80595
~~the state lottery commission determines~~ if required by rule 80596
adopted by the director under Chapter 119. of the Revised Code and 80597
~~that~~ the controlling board approves the fees; 80598

(b) Prior to approval of the application, obtain a surety 80599
bond in an amount the director determines by rule adopted under 80600
Chapter 119. of the Revised Code or, alternatively, with the 80601
director's approval, deposit the same amount into a dedicated 80602
account for the benefit of the state lottery. The director also 80603
may approve the obtaining of a surety bond to cover part of the 80604
amount required, together with a dedicated account deposit to 80605
cover the remainder of the amount required. 80606

A surety bond may be with any company that complies with the 80607
bonding and surety laws of this state and the requirements 80608
established by rules of the commission pursuant to this chapter. A 80609
dedicated account deposit shall be conducted in accordance with 80610
policies and procedures the director establishes. 80611

A surety bond, dedicated account, or both, as applicable, may 80612
be used to pay for the lottery sales agent's failure to make 80613
prompt and accurate payments for lottery ticket sales, for missing 80614
or stolen lottery tickets, ~~or~~ for damage to equipment or materials 80615
issued to the lottery sales agent, or to pay for expenses the 80616
commission incurs in connection with the lottery sales agent's 80617
license. 80618

(2) A lottery sales agent license is effective for one year. 80619

A licensed lottery sales agent, on or before the date 80620
established by the director, shall renew the agent's license and 80621
provide at that time evidence to the director that the surety 80622
bond, dedicated account deposit, or both, required under division 80623
(G)(1)(b) of this section has been renewed or is active, whichever 80624

applies. 80625

Before the commission renews a lottery sales agent license, 80626
the lottery sales agent shall submit a renewal fee to the 80627
commission ~~in an amount that the director determines, if one is~~ 80628
required by rule adopted by the director under Chapter 119. of the 80629
Revised Code and ~~that~~ the controlling board approves the renewal 80630
fee. The renewal fee shall not exceed the actual cost of 80631
administering the license renewal and processing changes reflected 80632
in the renewal application. The renewal of the license is 80633
effective for up to one year. 80634

(3) A lottery sales agent license shall be complete, 80635
accurate, and current at all times during the term of the license. 80636
Any changes to an original license application or a renewal 80637
application may subject the applicant or lottery sales agent, as 80638
applicable, to paying an administrative fee that shall be in an 80639
amount that the director determines by rule adopted under Chapter 80640
119. of the Revised Code, that the controlling board approves, and 80641
that shall not exceed the actual cost of administering and 80642
processing the changes to an application. 80643

(4) The relationship between the commission and a lottery 80644
sales agent is one of trust. A lottery sales agent collects funds 80645
on behalf of the commission through the sale of lottery tickets 80646
for which the agent receives a compensation. 80647

(H) Pending a final resolution of any question arising under 80648
this section, the director of the state lottery commission may 80649
issue a temporary lottery sales agent license, subject to the 80650
terms and conditions the director considers appropriate. 80651

(I) If a lottery sales agent's rental payments for the 80652
lottery sales agent's premises are determined, in whole or in 80653
part, by the amount of retail sales the lottery sales agent makes, 80654
and if the rental agreement does not expressly provide that the 80655

amount of those retail sales includes the amounts the lottery 80656
sales agent receives from lottery ticket sales, only the amounts 80657
the lottery sales agent receives as compensation from the state 80658
lottery commission for selling lottery tickets shall be considered 80659
to be amounts the lottery sales agent receives from the retail 80660
sales the lottery sales agent makes, for the purpose of computing 80661
the lottery sales agent's rental payments. 80662

Sec. 3772.032. (A) The permanent joint committee on gaming 80663
and wagering is established. The committee consists of six 80664
members. The speaker of the house of representatives shall appoint 80665
to the committee three members of the house of representatives and 80666
the president of the senate shall appoint to the committee three 80667
members of the senate. Not more than two members appointed from 80668
each chamber may be members of the same political party. The 80669
chairperson shall be from the opposite ~~party~~ house as the 80670
chairperson of the joint committee on agency rule review. If the 80671
chairperson is to be from the house of representatives, the 80672
speaker of the house of representatives shall designate a member 80673
as the chairperson and the president of the senate shall designate 80674
a member as the vice-chairperson. If the chairperson is to be from 80675
the senate, the president of the senate shall designate a member 80676
as the chairperson and the speaker of the house of representatives 80677
shall designate a member as the vice-chairperson. 80678

(B) The committee shall: 80679

(1) Review all constitutional amendments, laws, and rules 80680
governing the operation and administration of casino gaming and 80681
all authorized gaming and wagering activities and recommend to the 80682
general assembly and commission any changes it may find desirable 80683
with respect to the language, structure, and organization of those 80684
amendments, laws, or rules; 80685

(2) Make an annual report to the governor and to the general 80686

assembly with respect ~~of~~ to the operation and administration of 80687
casino gaming; 80688

(3) Review all changes of fees and penalties as provided in 80689
this chapter and rules adopted thereunder; and 80690

(4) Study all proposed changes to the constitution and laws 80691
of this state and to the rules adopted by the commission governing 80692
the operation and administration of casino gaming, and report to 80693
the general assembly on their adequacy and desirability as a 80694
matter of public policy. 80695

(C) Any study, or any expense incurred, in furtherance of the 80696
committee's objectives shall be paid for from, or out of, the 80697
casino control commission fund or other appropriation provided by 80698
law. The members shall receive no additional compensation, but 80699
shall be reimbursed for actual and necessary expenses incurred in 80700
the performance of their official duties. 80701

Sec. 3772.062. (A) The executive director of the commission 80702
shall enter into an agreement with the department of alcohol and 80703
drug addiction services under which the department provides a 80704
program of gambling and addiction services on behalf of the 80705
commission. 80706

(B) The executive director of the commission, in conjunction 80707
with the department of alcohol and drug addiction services and the 80708
state lottery commission, shall establish, operate, and publicize 80709
an in-state, toll-free telephone number Ohio residents may call to 80710
obtain basic information about problem gambling, the gambling 80711
addiction services available to problem gamblers, and how a 80712
problem gambler may obtain help. The telephone number shall be 80713
staffed twenty-four hours per day, seven days a week, to respond 80714
to inquiries and provide that information. The costs of 80715
establishing, operating, and publicizing the telephone number 80716
shall be paid for with money in the problem casino gambling and 80717

additions fund. 80718

Sec. 3781.06. (A)(1) Any building that may be used as a place 80719
of resort, assembly, education, entertainment, lodging, dwelling, 80720
trade, manufacture, repair, storage, traffic, or occupancy by the 80721
public, any residential building, and all other buildings or parts 80722
and appurtenances of those buildings erected within this state, 80723
shall be so constructed, erected, equipped, and maintained that 80724
they shall be safe and sanitary for their intended use and 80725
occupancy. 80726

(2) Nothing in sections 3781.06 to 3781.18 and 3791.04 of the 80727
Revised Code shall be construed to limit the power of the ~~public~~ 80728
~~health council~~ manufactured homes commission to adopt rules ~~of~~ 80729
~~uniform application~~ governing manufactured home parks pursuant to 80730
section ~~3733.02~~ 4781.04 of the Revised Code. 80731

(B) Sections 3781.06 to 3781.18 and 3791.04 of the Revised 80732
Code do not apply to either of the following: 80733

(1) Buildings or structures that are incident to the use for 80734
agricultural purposes of the land on which the buildings or 80735
structures are located, provided those buildings or structures are 80736
not used in the business of retail trade. For purposes of this 80737
division, a building or structure is not considered used in the 80738
business of retail trade if fifty per cent or more of the gross 80739
income received from sales of products in the building or 80740
structure by the owner or operator is from sales of products 80741
produced or raised in a normal crop year on farms owned or 80742
operated by the seller. 80743

(2) Existing single-family, two-family, and three-family 80744
detached dwelling houses for which applications have been 80745
submitted to the director of job and family services pursuant to 80746
section 5104.03 of the Revised Code for the purposes of operating 80747
type A family day-care homes as defined in section 5104.01 of the 80748

Revised Code. 80749

(C) As used in sections 3781.06 to 3781.18 and 3791.04 of the Revised Code: 80750

(1) "Agricultural purposes" include agriculture, farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, ornamental horticulture, olericulture, pomiculture, and animal and poultry husbandry. 80751

(2) "Building" means any structure consisting of foundations, walls, columns, girders, beams, floors, and roof, or a combination of any number of these parts, with or without other parts or appurtenances. 80752

(3) "Industrialized unit" means a building unit or assembly of closed construction fabricated in an off-site facility, that is substantially self-sufficient as a unit or as part of a greater structure, and that requires transportation to the site of intended use. "Industrialized unit" includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. "Industrialized unit" does not include a manufactured home as defined by division (C)(4) of this section or a mobile home as defined by division (O) of section 4501.01 of the Revised Code. 80753

(4) "Manufactured home" means a building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the secretary of housing and urban development pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 5403, and that has a permanent label or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all applicable federal construction and safety standards. 80754

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(5) "Permanent foundation" means permanent masonry, concrete, 80780
or a footing or foundation approved by the manufactured homes 80781
commission pursuant to Chapter 4781. of the Revised Code, to which 80782
a manufactured or mobile home may be affixed. 80783

(6) "Permanently sited manufactured home" means a 80784
manufactured home that meets all of the following criteria: 80785

(a) The structure is affixed to a permanent foundation and is 80786
connected to appropriate facilities; 80787

(b) The structure, excluding any addition, has a width of at 80788
least twenty-two feet at one point, a length of at least 80789
twenty-two feet at one point, and a total living area, excluding 80790
garages, porches, or attachments, of at least nine hundred square 80791
feet; 80792

(c) The structure has a minimum 3:12 residential roof pitch, 80793
conventional residential siding, and a six-inch minimum eave 80794
overhang, including appropriate guttering; 80795

(d) The structure was manufactured after January 1, 1995; 80796

(e) The structure is not located in a manufactured home park 80797
as defined by section ~~3733.01~~ 4781.01 of the Revised Code. 80798

(7) "Safe," with respect to a building, means it is free from 80799
danger or hazard to the life, safety, health, or welfare of 80800
persons occupying or frequenting it, or of the public and from 80801
danger of settlement, movement, disintegration, or collapse, 80802
whether such danger arises from the methods or materials of its 80803
construction or from equipment installed therein, for the purpose 80804
of lighting, heating, the transmission or utilization of electric 80805
current, or from its location or otherwise. 80806

(8) "Sanitary," with respect to a building, means it is free 80807
from danger or hazard to the health of persons occupying or 80808
frequenting it or to that of the public, if such danger arises 80809

from the method or materials of its construction or from any 80810
equipment installed therein, for the purpose of lighting, heating, 80811
ventilating, or plumbing. 80812

(9) "Residential building" means a one-family, two-family, or 80813
three-family dwelling house, and any accessory structure 80814
incidental to that dwelling house. "Residential building" includes 80815
a one-family, two-family, or three-family dwelling house that is 80816
used as a model to promote the sale of a similar dwelling house. 80817
"Residential building" does not include an industrialized unit as 80818
defined by division (C)(3) of this section, a manufactured home as 80819
defined by division (C)(4) of this section, or a mobile home as 80820
defined by division (O) of section 4501.01 of the Revised Code. 80821

(10) "Nonresidential building" means any building that is not 80822
a residential building or a manufactured or mobile home. 80823

(11) "Accessory structure" means a structure that is attached 80824
to a residential building and serves the principal use of the 80825
residential building. "Accessory structure" includes, but is not 80826
limited to, a garage, porch, or screened-in patio. 80827

Sec. 3781.183. If the board of building standards adopts 80828
rules under sections 3781.06 to 3781.18 of the Revised Code 80829
concerning the requirements an adult group home seeking licensure 80830
as an adult care facility must meet under section ~~3722.02~~ 5119.71 80831
of the Revised Code, the board shall adopt the rules in 80832
consultation with the directors of mental health and of aging and 80833
any interested party designated by the directors of mental health 80834
and of aging. 80835

Sec. 3791.043. If the board of building standards adopts 80836
rules under section 3791.04 of the Revised Code concerning the 80837
requirements an adult group home seeking licensure as an adult 80838
care facility must meet under section ~~3722.02~~ 5119.71 of the 80839

Revised Code, the board shall adopt the rules in consultation with 80840
the directors of mental health and aging and any interested party 80841
designated by the directors of mental health and aging. 80842

Sec. 3793.04. The department of alcohol and drug addiction 80843
services shall develop, administer, and revise as necessary a 80844
comprehensive statewide alcohol and drug addiction services plan 80845
for the implementation of this chapter. The plan shall emphasize 80846
abstinence from the use of alcohol and drugs of abuse as the 80847
primary goal of alcohol and drug addiction services. The council 80848
on alcohol and drug addiction services shall advise the department 80849
in the development and implementation of the plan. 80850

The plan shall provide for the allocation and distribution of 80851
~~state and federal~~ funds appropriated to the department by the 80852
general assembly for ~~service~~ services furnished by alcohol and 80853
drug addiction programs under contract with boards of alcohol, 80854
drug addiction, and mental health services ~~and for distribution of~~ 80855
~~the funds to such boards~~. The ~~plan~~ department shall exclude from 80856
the allocation and distribution any funds that are transferred to 80857
the department of job and family services to pay the nonfederal 80858
share of alcohol and drug addiction services covered by the 80859
medicaid program. 80860

The plan shall specify the methodology that the department 80861
will use for determining how the funds will be allocated and 80862
distributed. A portion of the funds shall be allocated on the 80863
basis of the ratio of the population of each alcohol, drug 80864
addiction, and mental health service district to the total 80865
population of the state as determined from the most recent federal 80866
census or the most recent official estimate made by the United 80867
States census bureau. 80868

The plan shall ensure that alcohol and drug addiction 80869
services of a high quality are accessible to, and responsive to 80870

the needs of, all persons, especially those who are members of 80871
underserved groups, including, but not limited to, African 80872
Americans, Hispanics, native Americans, Asians, juvenile and adult 80873
offenders, women, and persons with special services needs due to 80874
age or disability. The plan shall include a program to promote and 80875
protect the rights of those who receive services. 80876

To aid in formulating the plan and in evaluating the 80877
effectiveness and results of alcohol and drug addiction services, 80878
the department, in consultation with the department of mental 80879
health, shall establish and maintain an information system or 80880
systems. The department of alcohol and drug addiction services 80881
shall specify the information that must be provided by boards of 80882
alcohol, drug addiction, and mental health services and by alcohol 80883
and drug addiction programs for inclusion in the system. The 80884
department shall not collect any personal information from the 80885
boards except as required or permitted by state or federal law for 80886
purposes related to payment, health care operations, program and 80887
service evaluation, reporting activities, research, system 80888
administration, and oversight. 80889

In consultation with boards, programs, and persons receiving 80890
services, the department shall establish guidelines for the use of 80891
~~state and federal~~ funds allocated and distributed under this 80892
section and for the boards' development of plans for services 80893
required by sections 340.033 and 3793.05 of the Revised Code. 80894

In any fiscal year, the department shall spend, or allocate 80895
to boards, for methadone maintenance programs or any similar 80896
programs not more than eight per cent of the total amount 80897
appropriated to the department for the fiscal year. 80898

Sec. 3793.06. (A) ~~The department of alcohol and drug~~ 80899
~~addiction services shall evaluate and certify all~~ Each alcohol and 80900
drug addiction ~~programs in the state. Each~~ program shall apply to 80901

the department of alcohol and drug addiction services for 80902
certification. No program shall be eligible to receive state or 80903
federal funds unless it has been certified by the department. 80904

(B) No person shall represent in any manner that a program is 80905
certified by the department if the program is not certified at the 80906
time the representation is made. 80907

(C) Pursuant to Chapter 119. of the Revised Code and in 80908
consultation with members or representatives of boards of alcohol, 80909
drug addiction, and mental health services, programs, individuals 80910
who receive alcohol and drug addiction services, and the 80911
department of mental health, the department shall adopt rules that 80912
establish all of the following: 80913

(1) Minimum standards for the operation of programs, 80914
including, but not limited to, the following: 80915

(a) Requirements regarding physical facilities of programs; 80916

(b) Requirements with regard to health, safety, adequacy, and 80917
cultural specificity and sensitivity; 80918

(c) Requirements regarding the rights of recipients of 80919
services and procedures to protect these rights. 80920

(2) Standards for evaluating programs; 80921

(3) Standards and procedures for granting full or conditional 80922
certification to a program; 80923

(4) Standards and procedures for revoking the certification 80924
of a program that does not continue to meet the minimum standards 80925
established pursuant to this section. 80926

(D) Rules adopted under division (C) of this section shall 80927
specify the limitations to be placed on a program that is granted 80928
conditional certification. 80929

(E) The department may visit and evaluate any program to 80930
determine whether it meets the minimum standards for certification 80931

~~established pursuant to division (C) of this section. In the case~~ 80932
~~of a program that has a contract with or proposes to contract with~~ 80933
~~a board of alcohol, drug addiction, and mental health services,~~ 80934
~~the department shall conduct the visit and evaluation in~~ 80935
~~cooperation with the board. ¶¶~~ 80936

(F) Subject to section 3793.061 of the Revised Code, the 80937
department shall determine whether an applicant's program meets 80938
the minimum standards for certification. If the department 80939
determines that the program meets the minimum standards, it shall 80940
certify or recertify the program. 80941

~~(F)~~ (G) If the department determines that a program that has 80942
a contract with a board or proposes to contract with a board does 80943
not meet the minimum standards for certification, it shall 80944
identify the areas in which the program does not meet the 80945
standards, specify what action is necessary to meet the standards, 80946
and offer technical assistance to the board to enable it to assist 80947
the program in meeting the standards. The department shall give 80948
the program a reasonable time within which to demonstrate that the 80949
program meets the minimum standards or to bring the program into 80950
compliance with the standards. If the department concludes that 80951
the program continues to fail to meet minimum standards, it shall 80952
deny certification and may request that the board reallocate the 80953
funds that the board is allocating to that program to another 80954
program that is certified. If the board does not reallocate the 80955
funds within a reasonable time, the department may withhold from 80956
the board the funds that the board is allocating to the program 80957
and allocate the funds directly to a recovery program certified by 80958
the department. 80959

The department shall adopt rules pursuant to Chapter 119. of 80960
the Revised Code to implement this division. The rules shall 80961
specify the notice and hearing procedures to be followed prior to 80962
denial of certification or reallocation of funds. 80963

~~(G)~~(H) The department may withhold from a board all or part 80964
of the state and federal funds allocated for a program certified 80965
under this section in the event of failure of that program to 80966
comply with this chapter, Chapter 340. of the Revised Code, rules 80967
adopted by the department, or other provisions of state or federal 80968
law, including federal regulations. 80969

If the department proposes to withhold funds, it shall 80970
identify the areas of the program's noncompliance and the action 80971
necessary to achieve compliance and shall offer technical 80972
assistance to the board to enable it to assist the program to 80973
achieve compliance. The department shall allow a reasonable time 80974
within which the board or program shall demonstrate that the 80975
program is in compliance or the program shall bring itself into 80976
compliance. Before withholding funds, the department shall hold a 80977
hearing on the question of whether the program is in, or can be 80978
brought into, compliance. If, based on the hearing and other 80979
evidence, the department determines that compliance has not been, 80980
or cannot be, achieved, the department may withhold the funds and 80981
allocate all or part of the withheld funds to a certified program 80982
that is in compliance. That program shall use the funds to provide 80983
the services of the program that is not in compliance, until such 80984
time as it is in compliance. 80985

The department shall establish rules pursuant to Chapter 119. 80986
of the Revised Code to implement this division. 80987

~~(H)~~(I) The department shall maintain a current list of 80988
alcohol and drug addiction programs certified by the department 80989
under division (A) of this section and shall provide a copy of the 80990
current list to a judge of a court of common pleas who requests a 80991
copy for the use of the judge under division (H) of section 80992
2925.03 of the Revised Code. The list of certified alcohol and 80993
drug addiction programs shall identify each certified program by 80994
its name, its address, and the county in which it is located. 80995

Sec. 3793.061. (A) In lieu of a determination by the 80996
department of alcohol and drug addiction services of whether an 80997
alcohol and drug addiction program satisfies the standards for 80998
certification under section 3793.06 of the Revised Code, the 80999
department shall accept appropriate accreditation of an 81000
applicant's alcohol and other drug addiction services, integrated 81001
mental health and alcohol and other drug addiction services, or 81002
integrated alcohol and other drug addiction and physical health 81003
services being provided in this state from any of the following 81004
national accrediting organizations as evidence that the applicant 81005
satisfies the standards for certification: 81006

(1) The joint commission; 81007

(2) The commission on accreditation of rehabilitation 81008
facilities; 81009

(3) The council on accreditation. 81010

(B) If the department determines that an applicant's 81011
accreditation is current, is appropriate for the program for which 81012
the applicant is seeking certification, and the applicant meets 81013
any other requirements established under this section or in rules 81014
adopted under this section, the department shall certify or 81015
recertify the program. Except as provided in division (C)(2) of 81016
this section, the department shall issue the certification or 81017
recertification without further evaluation of the program. 81018

(C) For purposes of this section, all of the following apply: 81019

(1) The department may review the accrediting organizations 81020
listed in division (A) of this section to evaluate whether the 81021
accreditation standards and processes used by the organizations 81022
are consistent with service delivery models the department 81023
considers appropriate for alcohol and other drug addiction 81024
services, physical health services, or both. The department may 81025

communicate to an accrediting organization any identified 81026
concerns, trends, needs, and recommendations. 81027

(2) The department may visit or otherwise evaluate an alcohol 81028
and drug addiction program at any time based on cause, including 81029
complaints made by or on behalf of consumers and confirmed or 81030
alleged deficiencies brought to the attention of the department. 81031

(3) The department shall require an alcohol and drug 81032
addiction program to notify the department not later than ten days 81033
after any change in the program's accreditation status. The 81034
program may notify the department by providing a copy of the 81035
relevant document the program received from the accrediting 81036
organization. 81037

(4) The department shall require an alcohol and drug 81038
addiction program to submit to the department reports of major 81039
unusual incidents. 81040

(5) The department may require an alcohol and drug addiction 81041
program to submit to the department cost reports pertaining to the 81042
program. 81043

(D) The department shall adopt rules in accordance with 81044
Chapter 119. of the Revised Code to implement this section. In 81045
adopting the rules, the department shall do all of the following: 81046

(1) Specify the documentation that must be submitted as 81047
evidence of holding appropriate accreditation; 81048

(2) Establish a process by which the department may review 81049
the accreditation standards and processes used by the national 81050
accrediting organizations listed in division (A) of this section; 81051

(3) Specify the circumstances under which reports of major 81052
unusual incidents and program cost reports must be submitted to 81053
the department; 81054

(4) Specify the circumstances under which the department may 81055

visit or otherwise evaluate an alcohol and drug addiction program 81056
for cause; 81057

(5) Establish a process by which the department, based on 81058
deficiencies identified as a result of visiting or evaluating an 81059
alcohol drug addiction program under division (C)(2) of this 81060
section, may take any of a range of corrective actions, with the 81061
most stringent being revocation of the program's certification. 81062

Sec. 3793.21. (A) As used in this section, "administrative 81063
function" means a function related to one or more of the 81064
following: 81065

(1) Continuous quality improvement; 81066

(2) Utilization review; 81067

(3) Resource development; 81068

(4) Fiscal administration; 81069

(5) General administration; 81070

(6) Any other function related to administration that is 81071
required by Chapter 340. of the Revised Code. 81072

(B) Each board of alcohol, drug addiction, and mental health 81073
services shall submit an annual report to the department of 81074
alcohol and drug addiction services specifying how the board used 81075
~~state and federal~~ the funds allocated and distributed to the 81076
board, ~~according to the methodology the department specifies~~ under 81077
section 3793.04 of the Revised Code, for administrative functions 81078
in the year preceding the report's submission. The director of 81079
alcohol and drug addiction shall establish the date by which the 81080
report must be submitted each year. 81081

Sec. 3901.3814. Sections 3901.38 and 3901.381 to 3901.3813 of 81082
the Revised Code do not apply to the following: 81083

(A) Policies offering coverage that is regulated under 81084
Chapters 3935. and 3937. of the Revised Code; 81085

(B) An employer's self-insurance plan and any of its 81086
administrators, as defined in section 3959.01 of the Revised Code, 81087
to the extent that federal law supersedes, preempts, prohibits, or 81088
otherwise precludes the application of any provisions of those 81089
sections to the plan and its administrators; 81090

(C) A third-party payer for coverage provided under the 81091
medicare advantage program operated under Title XVIII of the 81092
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 81093
amended; 81094

(D) A third-party payer for coverage provided under the 81095
medicaid program operated under Title XIX of the "Social Security 81096
Act," except that if a federal waiver applied for under section 81097
5111.178 of the Revised Code is granted or the director of job and 81098
family services determines that this provision can be implemented 81099
without a waiver, sections 3901.38 and 3901.381 to 3901.3813 of 81100
the Revised Code apply to claims submitted electronically or 81101
non-electronically that are made with respect to coverage of 81102
medicaid recipients by health insuring corporations licensed under 81103
Chapter 1751. of the Revised Code, instead of the prompt payment 81104
requirements of 42 C.F.R. 447.46; 81105

(E) A third-party payer for coverage provided under the 81106
tricare program offered by the United States department of 81107
defense. 81108

~~(F) A third party payer for coverage provided under the 81109
children's buy in program established under sections 5101.5211 to 81110
5101.5216 of the Revised Code. 81111~~

Sec. 3901.56. An insurer may offer a wellness or health 81112
improvement program that provides rewards or incentives, including 81113

merchandise; gift cards; debit cards; premium discounts or rebates; contributions to a health savings account; modifications to copayment, deductible, or coinsurance amounts; or any combination of these incentives, to encourage participation or to reward participation in the program. 81114
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A wellness or health improvement program offered by an insurer under this section shall not be construed to violate division (E) of section 1751.31 or division (G) of section 3901.21 of the Revised Code if the program is disclosed in the policy or plan. 81119
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The insured may be required to provide verification, such as a statement from their physician, that a medical condition makes it unreasonably difficult or medically inadvisable for the individual to participate in the wellness or health improvement program. 81124
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Nothing in this section shall prohibit an insurer from offering incentives or rewards to members for adherence to wellness or health improvement programs if otherwise allowed by federal law. 81129
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Nothing under division (C)(1) of section 3923.571 or section 3924.25 of the Revised Code shall be construed as prohibiting an insurer from offering a wellness or health improvement program or restricting the amount an employee is charged for coverage under a group policy after the application of any premium discounts or rebates, or modifying otherwise applicable copayments or deductibles for adherence to wellness or health improvement programs. 81133
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For purposes of this section, "insurer" means a life insurance company, sickness and accident insurer, multiple employer welfare association, public employee benefit plan, or health insuring corporation. 81141
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Sec. 3903.01. As used in sections 3903.01 to 3903.59 of the Revised Code:

(A) "Admitted assets" means investment in assets which will be admitted by the superintendent of insurance pursuant to the law of this state.

(B) "Affiliate" has the same meaning as "affiliate of" or "affiliated with," as defined in section 3901.32 of the Revised Code.

(C) "Assets" means all property, real and personal, of every nature and kind whatsoever or any interest therein.

~~(C)~~(D) "Ancillary state" means any state other than a domiciliary state.

~~(D)~~(E) "Commodity contract" means any of the following:

(1) A contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a board of trade designated as a contract market by the commodity futures trading commission under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended, or a board of trade outside the United States;

(2) An agreement that is subject to regulation under section 19 of the "Commodity Exchange Act," 7 U.S.C. 23, as amended, and that is commonly known to the commodities trade as a margin account, margin contract, leverage account, or leverage contract;

(3) An agreement or transaction that is subject to regulation under section 4c(b) of the "Commodity Exchange Act," 7 U.S.C. 6c(b), as amended, and that is commonly known to the commodities trade as a commodity option;

(4) Any combination of agreements or transactions described in division (E) of this section;

(5) Any option to enter into an agreement or transaction

described in division (E) of this section. 81174

~~(F)~~ (F) "Creditor" means a person having any claim, whether 81175
matured or unmatured, liquidated or unliquidated, secured or 81176
unsecured, absolute, fixed, or contingent. 81177

~~(E)~~ (G) "Delinquency proceeding" means any proceeding 81178
commenced against an insurer for the purpose of liquidating, 81179
rehabilitating, reorganizing, or conserving the insurer, and any 81180
summary proceeding under section 3903.09 or 3903.10 of the Revised 81181
Code. "Formal delinquency proceeding" means any liquidation or 81182
rehabilitation proceeding. 81183

~~(F)~~ (H) "Doing business" includes any of the following acts, 81184
whether effected by mail or otherwise: 81185

(1) The issuance or delivery of contracts of insurance to 81186
persons resident in this state; 81187

(2) The solicitation of applications for such contracts, or 81188
other negotiations preliminary to the execution of such contracts; 81189

(3) The collection of premiums, membership fees, assessments, 81190
or other consideration for such contracts; 81191

(4) The transaction of matters subsequent to execution of 81192
such contracts and arising out of them; 81193

(5) Operating under a license or certificate of authority, as 81194
an insurer, issued by the department of insurance. 81195

~~(G)~~ (I) "Domiciliary state" means the state in which an 81196
insurer is incorporated or organized, or, in the case of an alien 81197
insurer, its state of entry. 81198

~~(H)~~ (J) "Fair consideration" is given for property or 81199
obligation when either of the following apply: 81200

(1) When in exchange for such property or obligation, as a 81201
fair equivalent therefor, and in good faith, property is conveyed, 81202
services are rendered, an obligation is incurred, or an antecedent 81203

debt is satisfied; 81204

(2) When such property or obligation is received in good 81205
faith to secure a present advance or antecedent debt in an amount 81206
not disproportionately small as compared to the value of the 81207
property or obligation obtained. 81208

~~(I)~~(K) "Foreign country" means any other jurisdiction not in 81209
any state. 81210

~~(J)~~(L) "Forward contract" has the same meaning as in the 81211
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 81212
1821(e)(8)(D), as now and hereafter amended. 81213

(M) "Guaranty association" means the Ohio insurance guaranty 81214
association created by section 3955.06 of the Revised Code and any 81215
other similar entity hereafter created by the general assembly for 81216
the payment of claims of insolvent insurers. "Foreign guaranty 81217
association" means any similar entities now in existence in or 81218
hereafter created by the legislature of any other state. 81219

~~(K)~~(N) "Insolvency" or "insolvent" means: 81220

(1) For an insurer issuing only assessable fire insurance 81221
policies either of the following: 81222

(a) The inability to pay any obligation within thirty days 81223
after it becomes payable; 81224

(b) If an assessment is made within thirty days after such 81225
date, the inability to pay the obligation thirty days following 81226
the date specified in the first assessment notice issued after the 81227
date of loss. 81228

(2) For any other insurer, that it is unable to pay its 81229
obligations when they are due, or when its admitted assets do not 81230
exceed its liabilities plus the greater of either of the 81231
following: 81232

(a) Any capital and surplus required by law for its 81233

organization; 81234

(b) The total par or stated value of its authorized and 81235
issued capital stock. 81236

(3) As to any insurer licensed to do business in this state 81237
as of the effective date of sections 3903.01 to 3903.59 of the 81238
Revised Code that does not meet the standard established under 81239
division ~~(K)~~(N)(2) of this section, the term "insolvency" or 81240
"insolvent" means, for a period not to exceed three years from the 81241
effective date of sections 3903.01 to 3903.59 of the Revised Code, 81242
that it is unable to pay its obligations when they are due or that 81243
its admitted assets do not exceed its liabilities plus any 81244
required capital contribution ordered by the superintendent under 81245
provisions of Title XXXIX of the Revised Code. 81246

(4) For purposes of divisions ~~(K)~~(N)(2) to (4) of this 81247
section, "liabilities" includes, but is not limited to, reserves 81248
required by statute or by rules of the superintendent or specific 81249
requirements imposed by the superintendent upon a subject company 81250
at the time of admission or subsequent thereto. 81251

~~(L)~~(O) "Insurer" means any person who has done, purports to 81252
do, is doing, or is licensed to do an insurance business, and is 81253
or has been subject to the authority of, or to liquidation, 81254
rehabilitation, reorganization, supervision, or conservation by, 81255
any insurance commissioner, superintendent, or equivalent 81256
official. For purposes of sections 3903.01 to 3903.59 of the 81257
Revised Code, any other persons included under section 3903.03 of 81258
the Revised Code are deemed to be insurers. 81259

~~(M)~~(P) "Netting agreement" means: 81260

(1) A contract or agreement, including a master agreement, 81261
and any terms and conditions incorporated by reference in such a 81262
contract or agreement, that provides for the netting, liquidation, 81263
setoff, termination, acceleration, or close out under or in 81264

connection with a qualified financial contract, or any present or 81265
future payment or delivery obligations or entitlements under a 81266
qualified financial contract, including liquidation or close-out 81267
values relating to those obligations or entitlements; 81268

(2) A master agreement, together with all schedules, 81269
confirmations, definitions, and addenda to the agreement and 81270
transactions under the agreement, which shall be treated as one 81271
netting agreement, and any bridge agreement for one or more master 81272
agreements; 81273

(3) Any security agreement or arrangement, credit support 81274
document, or guarantee or reimbursement obligation related to any 81275
contract or agreement described in division (P) of this section. 81276

Any contract or agreement described in division (P) of this 81277
section relating to agreements or transactions that are not 81278
qualified financial contracts shall be deemed to be a netting 81279
agreement only with respect to those agreements or transactions 81280
that are qualified financial contracts. 81281

(Q) "Preferred claim" means any claim with respect to which 81282
the terms of sections 3903.01 to 3903.59 of the Revised Code 81283
accord priority of payment from the assets of the insurer. 81284

~~(N)~~(R) "Qualified financial contract" means any commodity 81285
contract, forward contract, repurchase agreement, securities 81286
contract, swap agreement, and any similar agreement that the 81287
superintendent may determine by rule or order to be a qualified 81288
financial contract for purposes of this chapter. 81289

(S) "Reciprocal state" means any state other than this state 81290
in which in substance and effect division (A) of section 3903.18, 81291
and sections 3903.52, 3903.53, and 3903.55 to 3903.57 of the 81292
Revised Code are in force, in which provisions are in force 81293
requiring that the superintendent or equivalent official be the 81294
receiver, liquidator, rehabilitator, or conservator of a 81295

delinquent insurer, and in which some provision exists for the 81296
avoidance of fraudulent conveyances and preferential transfers. 81297

~~(O)~~(T) "Repurchase agreement" has the same meaning as in the 81298
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 81299
1821(e)(8)(D), as now and hereafter amended. 81300

(U) "Secured claim" means any claim secured by mortgage, 81301
trust deed, security agreement, pledge, deposit as security, 81302
escrow, or otherwise, but not including special deposit claims or 81303
claims against assets. The term also includes claims which have 81304
become liens upon specific assets by reason of judicial process. 81305

~~(P)~~(V) "Securities contract" has the same meaning as in the 81306
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 81307
1821(e)(8)(D), as now and hereafter amended. 81308

(W) "Special deposit claim" means any claim secured by a 81309
deposit made pursuant to statute for the security or benefit of a 81310
limited class or classes of persons, but not including any claim 81311
secured by assets. 81312

~~(Q)~~(X) "State" has the meaning set forth in division (G) of 81313
section 1.59 of the Revised Code. 81314

~~(R)~~(Y) "Superintendent" or "superintendent of insurance" 81315
means the superintendent of insurance of this state, or, when the 81316
context requires, the superintendent or commissioner of insurance, 81317
or equivalent official, of another state. 81318

~~(S)~~(Z) "Swap agreement" has the same meaning as in the 81319
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 81320
1821(e)(8)(D), as now and hereafter amended. 81321

(AA) "Transfer" includes the sale and every other and 81322
different mode, direct or indirect, of disposing of or of parting 81323
with property or with an interest in property, or with the 81324
possession of property or of fixing a lien upon property or upon 81325

an interest in property, absolutely or conditionally, voluntarily, 81326
or by or without judicial proceedings. The retention of a security 81327
title to property delivered to a debtor shall be deemed a transfer 81328
suffered by the debtor. 81329

Sec. 3903.301. (A) Notwithstanding any other provision under 81330
sections 3903.01 to 3903.59 of the Revised Code, no person shall 81331
be stayed or prohibited from exercising any of the following 81332
rights: 81333

(1) A contractual right to cause the termination, 81334
liquidation, acceleration, or close out of obligations under, or 81335
in connection with, a netting agreement or qualified financial 81336
contract with an insurer because of either of the following: 81337

(a) The insolvency, financial condition, or default of the 81338
insurer at any time; 81339

(b) The commencement of a formal delinquency proceeding under 81340
sections 3903.01 to 3903.59 of the Revised Code. 81341

(2) Any right under a pledge, security, collateral, 81342
reimbursement, or guarantee agreement or arrangement or any 81343
similar security arrangement or credit enhancement relating to a 81344
netting agreement or qualified financial contract; 81345

(3) Subject to section 3903.30 of the Revised Code, any right 81346
to set off or net out any termination value, payment amount, or 81347
other transfer obligation arising under or in connection with a 81348
qualified financial contract in which the counterparty or its 81349
guarantor is organized under the laws of the United States, a 81350
state, or a foreign jurisdiction that the securities valuation 81351
office of the national association of insurance commissioners 81352
approves as eligible for netting. 81353

(B) If a counterparty to a netting agreement or qualified 81354
financial contract with an insurer that is subject to a proceeding 81355

under sections 3903.01 to 3903.59 of the Revised Code terminates, 81356
liquidates, accelerates, or closes out the agreement or contract, 81357
damages shall be measured as of the date or dates of the 81358
termination, liquidation, acceleration, or close out. The amount 81359
of a claim for damages shall be actual direct compensatory 81360
damages. 81361

(C) Upon termination of a netting agreement or qualified 81362
financial contract, any net or settlement amount that a 81363
nondefaulting party owes to an insurer against which an 81364
application or petition has been filed under sections 3903.01 to 81365
3903.59 of the Revised Code shall be transferred to, or on the 81366
order of, the receiver for the insurer. 81367

This division applies regardless of whether the insurer is 81368
the defaulting party and applies notwithstanding any walkaway 81369
clause in the netting agreement or qualified financial contract. 81370

For purposes of this division, a limited two-way payment or 81371
first method provision in a netting agreement or qualified 81372
financial contract with a defaulting insurer shall be deemed to be 81373
a full two-way payment or second method provision as against the 81374
defaulting insurer. 81375

Any property or amount transferred under this division shall 81376
be a general asset of the insurer except to the extent it is 81377
subject to a secondary lien or encumbrance, or to rights of 81378
netting or setoff. 81379

(D) In transferring a netting agreement or qualified 81380
financial contract of an insurer that is subject to a proceeding 81381
under sections 3903.01 to 3903.59 of the Revised Code, the 81382
receiver shall do either of the following: 81383

(1) Transfer to one party, other than an insurer subject to a 81384
proceeding under sections 3903.01 to 3903.59 of the Revised Code, 81385
all netting agreements and qualified financial contracts between a 81386

counterparty, or any affiliate of the counterparty, and the 81387
insurer that is the subject of the proceeding. The transfer shall 81388
include all rights and obligations of each party under each 81389
netting agreement and qualified financial contract, and all 81390
property, including any guarantees or other credit enhancement, 81391
securing any claims of the parties under each agreement or 81392
contract. 81393

(2) Transfer none of the netting agreements or qualified 81394
financial contracts, including the rights, obligations, and 81395
property associated with those agreements and contracts as 81396
described in division (D)(1) of this section, with respect to the 81397
counterparty and any affiliate of the counterparty. 81398

(E) If a receiver transfers a netting agreement or qualified 81399
financial contract, the receiver shall use its best efforts to 81400
notify any person who is a party to the transferred agreement or 81401
contract of the transfer by noon, of the receiver's local time, on 81402
the business day following the transfer. 81403

(F)(1) Notwithstanding any other provision of sections 81404
3903.01 to 3903.59 of the Revised Code and except as otherwise 81405
provided in division (F)(2) of this section, a receiver shall not 81406
avoid a transfer of money or other property that is made before 81407
the commencement of a formal delinquency proceeding under sections 81408
3903.01 to 3903.59 of the Revised Code and that arises under or in 81409
connection with either of the following: 81410

(a) A netting agreement or qualified financial contract; 81411

(b) Any pledge, security, collateral, or guarantee agreement 81412
or other similar security arrangement or credit support document 81413
relating to a netting agreement or qualified financial contract. 81414

(2) A receiver may avoid a transfer under sections 3903.26 to 81415
3903.28 of the Revised Code if the transfer was made with actual 81416
intent to hinder, delay, or defraud the insurer, a receiver 81417

appointed for the insurer, or existing or future creditors. 81418

(G)(1) In exercising any right of disaffirmance or 81419
repudiation with respect to a netting agreement or qualified 81420
financial contract to which an insurer is a party, the receiver 81421
for the insurer shall do either of the following: 81422

(a) Disaffirm or repudiate all netting agreements and 81423
qualified financial contracts between the insurer and a 81424
counterparty or any affiliate of the counterparty; 81425

(b) Disaffirm or repudiate none of those netting agreements 81426
or qualified financial contracts with respect to the counterparty 81427
or any affiliate of the counterparty. 81428

(2) Notwithstanding any other provision of sections 3903.01 81429
to 3903.59 of the Revised Code, if a counterparty's claim against 81430
the estate of the insurer arising from the receiver's 81431
disaffirmance or repudiation of a netting agreement or qualified 81432
financial contract has not been previously affirmed in the 81433
liquidation or immediately preceding conservation or 81434
rehabilitation case, that claim shall be considered as if it had 81435
arisen before the filing date of the petition for liquidation. If 81436
a conservation or rehabilitation proceeding is converted to a 81437
liquidation proceeding, that claim shall be considered as if it 81438
had arisen before the filing date of the petition for conservation 81439
or rehabilitation. The amount of the claim shall be the actual 81440
direct compensatory damages determined as of the date of the 81441
disaffirmance or repudiation. 81442

(H) All rights of a counterparty under sections 3903.01 to 81443
3903.59 of the Revised Code shall apply to netting agreements and 81444
qualified financial contracts entered into on behalf of the 81445
general account or separate accounts if the assets of each 81446
separate account are available only to counterparties to netting 81447
agreements and qualified financial contracts entered into on 81448

behalf of that separate account. 81449

(I) This section shall not apply to the affiliates of an insurer that is the subject of a formal delinquency proceeding under sections 3903.01 to 3903.59 of the Revised Code. 81450
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(J) As used in this section: 81453

(1) "Actual direct compensatory damages" includes normal and reasonable costs of cover or other reasonable measures of damages utilized in the derivatives, securities, or other market for the contract and agreement claims. "Actual direct compensatory damages" does not include punitive or exemplary damages, damages for lost profit or lost opportunity, or damages for pain and suffering. 81454
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(2) "Business day" means any day, excluding Saturday, Sunday, and any day on which the New York stock exchange or the federal reserve bank of New York is closed. 81461
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(3) "Contractual right" includes any of the following: 81464

(a) Any right set forth in a rule or bylaw of a derivatives clearing organization, as defined in the "Commodity Exchange Act," 7 U.S.C. 1a(9)(A), as amended; a multilateral clearing organization; a national securities exchange; a national securities association; a securities clearing agency; a contract market designated under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended; a derivatives transaction execution facility, including a swap execution facility, registered under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended; a security-based swap execution facility registered under the "Securities Exchange Act of 1934," 15 U.S.C. 78a et seq., as amended; or a board of trade, as defined in the "Commodity Exchange Act," 7 U.S.C. 1a(2); 81465
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(b) Any right set forth in a resolution of the governing board of any entity listed in division (J)(3)(a) of this section; 81478
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(c) Any right, regardless of whether evidenced in writing, arising under statutory law, common law, or law merchant, or by reason of normal business practice. 81480
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(4) "Receiver" means a receiver, conservator, rehabilitator, or liquidator, as applicable. 81483
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(5) "Walkaway clause" means a provision under which a party to a netting agreement or qualified financial contract that, after calculation of a value of a party's position or an amount due to or from one of the parties in accordance with its terms upon termination, liquidation, or acceleration of the netting agreement or qualified financial contract is not obligated to pay or does not have a payment obligation extinguished under the agreement or contract, in whole or in part, solely because the party is a nondefaulting party. 81485
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Sec. 3923.28. (A) Every policy of group sickness and accident insurance providing hospital, surgical, or medical expense coverage for other than specific diseases or accidents only, and delivered, issued for delivery, or renewed in this state on or after January 1, 1979, and that provides coverage for mental or emotional disorders, shall provide benefits for services on an outpatient basis for each eligible person under the policy who resides in this state for mental or emotional disorders, or for evaluations, that are at least equal to five hundred fifty dollars in any calendar year or twelve-month period. The services shall be legally performed by or under the clinical supervision of a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; a psychologist licensed under Chapter 4732. of the Revised Code; a professional clinical counselor, professional counselor, or independent social worker licensed under Chapter 4757. of the Revised Code; or a clinical nurse specialist licensed under 81494
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Chapter 4723. of the Revised Code whose nursing specialty is 81511
mental health, whether performed in an office, in a hospital, or 81512
in a community mental health facility so long as the hospital or 81513
community mental health facility is approved by the joint 81514
commission on accreditation of healthcare organizations, the 81515
council on accreditation for children and family services, or the 81516
rehabilitation accreditation commission, ~~or, until two years after~~ 81517
~~June 6, 2001, certified by the department of mental health as~~ 81518
~~being in compliance with standards established under division (H)~~ 81519
~~of section 5119.01 of the Revised Code.~~ 81520

(B) Outpatient benefits offered under division (A) of this 81521
section shall be subject to reasonable contract limitations and 81522
may be subject to reasonable deductibles and co-insurance costs. 81523
Persons entitled to such benefit under more than one service or 81524
insurance contract may be limited to a single 81525
five-hundred-fifty-dollar outpatient benefit for services under 81526
all contracts. 81527

(C) In order to qualify for participation under division (A) 81528
of this section, every facility specified in such division shall 81529
have in effect a plan for utilization review and a plan for peer 81530
review and every person specified in such division shall have in 81531
effect a plan for peer review. Such plans shall have the purpose 81532
of ensuring high quality patient care and effective and efficient 81533
utilization of available health facilities and services. 81534

(D) Nothing in this section shall be construed to require an 81535
insurer to pay benefits which are greater than usual, customary, 81536
and reasonable. 81537

(E)(1) Services performed under the clinical supervision of a 81538
health care professional identified in division (A) of this 81539
section, in order to be reimbursable under the coverage required 81540
in division (A) of this section, shall meet both of the following 81541
requirements: 81542

(a) The services shall be performed in accordance with a treatment plan that describes the expected duration, frequency, and type of services to be performed;

(b) The plan shall be reviewed and approved by the health care professional every three months.

(2) Payment of benefits for services reimbursable under division (E)(1) of this section shall not be restricted to services described in the treatment plan or conditioned upon standards of clinical supervision that are more restrictive than standards of a health care professional described in division (A) of this section, which at least equal the requirements of division (E)(1) of this section.

(F) The benefits provided by this section for mental and emotional disorders shall not be reduced by the cost of benefits provided pursuant to section 3923.281 of the Revised Code for diagnostic and treatment services for biologically based mental illnesses. This section does not apply to benefits for diagnostic and treatment services for biologically based mental illnesses.

Sec. 3923.281. (A) As used in this section:

(1) "Biologically based mental illness" means schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, and panic disorder, as these terms are defined in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association.

(2) "Policy of sickness and accident insurance" has the same meaning as in section 3923.01 of the Revised Code, but excludes any hospital indemnity, medicare supplement, long-term care, disability income, one-time-limited-duration policy of not longer

than six months, supplemental benefit, or other policy that 81573
provides coverage for specific diseases or accidents only; any 81574
policy that provides coverage for workers' compensation claims 81575
compensable pursuant to Chapters 4121. and 4123. of the Revised 81576
Code; and any policy that provides coverage to beneficiaries 81577
enrolled in Title XIX of the "Social Security Act," 49 Stat. 620 81578
(1935), 42 U.S.C.A. 301, as amended, known as the medical 81579
assistance program or medicaid, as provided by the Ohio department 81580
of job and family services under Chapter 5111. of the Revised 81581
Code; ~~and any policy that provides coverage to beneficiaries~~ 81582
~~enrolled in the children's buy in program established under~~ 81583
~~sections 5101.5211 to 5101.5216 of the Revised Code.~~ 81584

(B) Notwithstanding section 3901.71 of the Revised Code, and 81585
subject to division (E) of this section, every policy of sickness 81586
and accident insurance shall provide benefits for the diagnosis 81587
and treatment of biologically based mental illnesses on the same 81588
terms and conditions as, and shall provide benefits no less 81589
extensive than, those provided under the policy of sickness and 81590
accident insurance for the treatment and diagnosis of all other 81591
physical diseases and disorders, if both of the following apply: 81592

(1) The biologically based mental illness is clinically 81593
diagnosed by a physician authorized under Chapter 4731. of the 81594
Revised Code to practice medicine and surgery or osteopathic 81595
medicine and surgery; a psychologist licensed under Chapter 4732. 81596
of the Revised Code; a professional clinical counselor, 81597
professional counselor, or independent social worker licensed 81598
under Chapter 4757. of the Revised Code; or a clinical nurse 81599
specialist licensed under Chapter 4723. of the Revised Code whose 81600
nursing specialty is mental health. 81601

(2) The prescribed treatment is not experimental or 81602
investigational, having proven its clinical effectiveness in 81603
accordance with generally accepted medical standards. 81604

(C) Division (B) of this section applies to all coverages and terms and conditions of the policy of sickness and accident insurance, including, but not limited to, coverage of inpatient hospital services, outpatient services, and medication; maximum lifetime benefits; copayments; and individual and family deductibles.

(D) Nothing in this section shall be construed as prohibiting a sickness and accident insurance company from taking any of the following actions:

(1) Negotiating separately with mental health care providers with regard to reimbursement rates and the delivery of health care services;

(2) Offering policies that provide benefits solely for the diagnosis and treatment of biologically based mental illnesses;

(3) Managing the provision of benefits for the diagnosis or treatment of biologically based mental illnesses through the use of pre-admission screening, by requiring beneficiaries to obtain authorization prior to treatment, or through the use of any other mechanism designed to limit coverage to that treatment determined to be necessary;

(4) Enforcing the terms and conditions of a policy of sickness and accident insurance.

(E) An insurer that offers any policy of sickness and accident insurance is not required to provide benefits for the diagnosis and treatment of biologically based mental illnesses pursuant to division (B) of this section if all of the following apply:

(1) The insurer submits documentation certified by an independent member of the American academy of actuaries to the superintendent of insurance showing that incurred claims for diagnostic and treatment services for biologically based mental

illnesses for a period of at least six months independently caused 81636
the insurer's costs for claims and administrative expenses for the 81637
coverage of all other physical diseases and disorders to increase 81638
by more than one per cent per year. 81639

(2) The insurer submits a signed letter from an independent 81640
member of the American academy of actuaries to the superintendent 81641
of insurance opining that the increase described in division 81642
(E)(1) of this section could reasonably justify an increase of 81643
more than one per cent in the annual premiums or rates charged by 81644
the insurer for the coverage of all other physical diseases and 81645
disorders. 81646

(3) The superintendent of insurance makes the following 81647
determinations from the documentation and opinion submitted 81648
pursuant to divisions (E)(1) and (2) of this section: 81649

(a) Incurred claims for diagnostic and treatment services for 81650
biologically based mental illnesses for a period of at least six 81651
months independently caused the insurer's costs for claims and 81652
administrative expenses for the coverage of all other physical 81653
diseases and disorders to increase by more than one per cent per 81654
year. 81655

(b) The increase in costs reasonably justifies an increase of 81656
more than one per cent in the annual premiums or rates charged by 81657
the insurer for the coverage of all other physical diseases and 81658
disorders. 81659

Any determination made by the superintendent under this 81660
division is subject to Chapter 119. of the Revised Code. 81661

Sec. 3923.30. Every person, the state and any of its 81662
instrumentalities, any county, township, school district, or other 81663
political subdivisions and any of its instrumentalities, and any 81664
municipal corporation and any of its instrumentalities, which 81665

provides payment for health care benefits for any of its employees 81666
resident in this state, which benefits are not provided by 81667
contract with an insurer qualified to provide sickness and 81668
accident insurance, or a health insuring corporation, shall 81669
include the following benefits in its plan of health care benefits 81670
commencing on or after January 1, 1979: 81671

(A) If such plan of health care benefits provides payment for 81672
the treatment of mental or nervous disorders, then such plan shall 81673
provide benefits for services on an outpatient basis for each 81674
eligible employee and dependent for mental or emotional disorders, 81675
or for evaluations, that are at least equal to the following: 81676

(1) Payments not less than five hundred fifty dollars in a 81677
twelve-month period, for services legally performed by or under 81678
the clinical supervision of a physician authorized under Chapter 81679
4731. of the Revised Code to practice medicine and surgery or 81680
osteopathic medicine and surgery; a psychologist licensed under 81681
Chapter 4732. of the Revised Code; a professional clinical 81682
counselor, professional counselor, or independent social worker 81683
licensed under Chapter 4757. of the Revised Code; or a clinical 81684
nurse specialist licensed under Chapter 4723. of the Revised Code 81685
whose nursing specialty is mental health, whether performed in an 81686
office, in a hospital, or in a community mental health facility so 81687
long as the hospital or community mental health facility is 81688
approved by the joint commission on accreditation of healthcare 81689
organizations, the council on accreditation for children and 81690
family services, or the rehabilitation accreditation commission, 81691
~~or, until two years after June 6, 2001, certified by the~~ 81692
~~department of mental health as being in compliance with standards~~ 81693
~~established under division (H) of section 5119.01 of the Revised~~ 81694
~~Code;~~ 81695

(2) Such benefit shall be subject to reasonable limitations, 81696
and may be subject to reasonable deductibles and co-insurance 81697

costs. 81698

(3) In order to qualify for participation under this 81699
division, every facility specified in this division shall have in 81700
effect a plan for utilization review and a plan for peer review 81701
and every person specified in this division shall have in effect a 81702
plan for peer review. Such plans shall have the purpose of 81703
ensuring high quality patient care and effective and efficient 81704
utilization of available health facilities and services. 81705

(4) Such payment for benefits shall not be greater than 81706
usual, customary, and reasonable. 81707

(5)(a) Services performed by or under the clinical 81708
supervision of a health care professional identified in division 81709
(A)(1) of this section, in order to be reimbursable under the 81710
coverage required in division (A) of this section, shall meet both 81711
of the following requirements: 81712

(i) The services shall be performed in accordance with a 81713
treatment plan that describes the expected duration, frequency, 81714
and type of services to be performed; 81715

(ii) The plan shall be reviewed and approved by the health 81716
care professional every three months. 81717

(b) Payment of benefits for services reimbursable under 81718
division (A)(5)(a) of the section shall not be restricted to 81719
services described in the treatment plan or conditioned upon 81720
standards of a licensed physician or licensed psychologist, which 81721
at least equal the requirements of division (A)(5)(a) of this 81722
section. 81723

(B) Payment for benefits for alcoholism treatment for 81724
outpatient, inpatient, and intermediate primary care for each 81725
eligible employee and dependent that are at least equal to the 81726
following: 81727

(1) Payments not less than five hundred fifty dollars in a 81728
twelve-month period for services legally performed by or under the 81729
clinical supervision of a health care professional identified in 81730
division (A)(1) of this section, whether performed in an office, 81731
or in a hospital or a community mental health facility or 81732
alcoholism treatment facility so long as the hospital, community 81733
mental health facility, or alcoholism treatment facility is 81734
approved by the joint commission on accreditation of hospitals or 81735
certified by the department of health; 81736

(2) The benefits provided under this division shall be 81737
subject to reasonable limitations and may be subject to reasonable 81738
deductibles and co-insurance costs. 81739

(3) A health care professional shall every three months 81740
certify a patient's need for continued services performed by such 81741
facilities. 81742

(4) In order to qualify for participation under this 81743
division, every facility specified in this division shall have in 81744
effect a plan for utilization review and a plan for peer review 81745
and every person specified in this division shall have in effect a 81746
plan for peer review. Such plans shall have the purpose of 81747
ensuring high quality patient care and efficient utilization of 81748
available health facilities and services. Such person or 81749
facilities shall also have in effect a program of rehabilitation 81750
or a program of rehabilitation and detoxification. 81751

(5) Nothing in this section shall be construed to require 81752
reimbursement for benefits which is greater than usual, customary, 81753
and reasonable. 81754

(C) The benefits provided by division (A) of this section for 81755
mental and emotional disorders shall not be reduced by the cost of 81756
benefits provided pursuant to section 3923.282 of the Revised Code 81757
for diagnostic and treatment services for biologically based 81758

mental illness. This section does not apply to benefits for 81759
diagnostic and treatment services for biologically based mental 81760
illnesses. 81761

Sec. 3924.10. (A) The board of directors of the Ohio health 81762
reinsurance program may make recommendations to the superintendent 81763
of insurance, and the superintendent may adopt or amend by rule 81764
adopted in accordance with Chapter 119. of the Revised Code, the 81765
OHC basic, standard, and carrier reimbursement plans which, when 81766
offered by a carrier, are eligible for reinsurance under the 81767
program. The superintendent shall establish the form and level of 81768
coverage to be made available by carriers in their OHC plans. The 81769
plans shall include benefit levels, deductibles, coinsurance 81770
factors, exclusions, and limitations for the plans. The forms and 81771
levels of coverage shall specify which components of health 81772
benefit plans offered by a carrier may be reinsured. The OHC plans 81773
are subject to division (C) of section 3924.02 of the Revised Code 81774
and to the provisions in Chapters 1751., 1753., 3923., and any 81775
other chapter of the Revised Code that require coverage or the 81776
offer of coverage of a health care service or benefit. 81777

(B) Prior to adopting any rule that makes changes to the OHC 81778
basic or standard plan, the superintendent shall conduct an 81779
actuarial analysis of the cost impact of the proposed rule. ~~The~~ 81780
~~superintendent may consider recommendations of the Ohio health~~ 81781
~~care coverage and quality council established under section~~ 81782
~~3923.90 of the Revised Code.~~ The plans may include cost 81783
containment features including any of the following: 81784

(1) Utilization review of health care services, including 81785
review of the medical necessity of hospital and physician 81786
services; 81787

(2) Case management benefit alternatives; 81788

(3) Selective contracting with hospitals, physicians, and 81789

other health care providers;	81790
(4) Reasonable benefit differentials applicable to participating and nonparticipating providers;	81791 81792
(5) Employee assistance program options that provide preventive and early intervention mental health and substance abuse services;	81793 81794 81795
(6) Other provisions for the cost-effective management of the plans.	81796 81797
(C) OHC plans established for use by health insuring corporations shall be consistent with the basic method of operation of such corporations.	81798 81799 81800
(D) Each carrier shall certify to the superintendent of insurance, in the form and manner prescribed by the superintendent, that the OHC plans filed by the carrier are in substantial compliance with the provisions of the OHC plans designed or adopted under this section. Upon receipt by the superintendent of the certification, the carrier may use the certified plans.	81801 81802 81803 81804 81805 81806 81807
(E) Each carrier shall, on and after sixty days after the date that the program becomes operational and as a condition of transacting business in this state, renew coverage provided to any individual or group under its OHC plans.	81808 81809 81810 81811
(F) The OHC plans in effect as of June 1, 2009, shall remain in effect until those plans are amended or new plans are adopted in accordance with this section.	81812 81813 81814
Sec. 3937.41. (A) As used in this section:	81815
(1) "Ambulance" has the same meaning as in section 4765.01 of the Revised Code and also includes private ambulance companies under contract to a municipal corporation, township, or county.	81816 81817 81818

- (2) "Emergency vehicle" means any of the following: 81819
- (a) Any vehicle, as defined in section 4511.01 of the Revised Code, that is an emergency vehicle of a municipal, township, or county department or public utility corporation and that is identified as such as required by law, the director of public safety, or local authorities; 81820
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- (b) Any motor vehicle, as defined in section 4511.01 of the Revised Code, when commandeered by a police officer; 81825
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- (c) Any vehicle, as defined in section 4511.01 of the Revised Code, that is an emergency vehicle of a qualified nonprofit corporation police department established pursuant to section 1702.80 of the Revised Code and that is identified as an emergency vehicle; 81827
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- (d) Any vehicle, as defined in section 4511.01 of the Revised Code, that is an emergency vehicle of a proprietary police department or security department of a hospital operated by a public hospital agency or a nonprofit hospital agency that employs police officers under section 4973.17 of the Revised Code, and that is identified as an emergency vehicle. 81832
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- (3) "Firefighter" means any regular, paid, member of a lawfully constituted fire department of a municipal corporation or township. 81838
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- (4) "Law enforcement officer" means any of the following: 81841
- (a) A sheriff, deputy sheriff, constable, marshal, deputy marshal, municipal police officer, police officer of a township or joint ~~township~~ police district, state highway patrol trooper, or member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code; 81842
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- (b) A police officer employed by a qualified nonprofit police 81848

department pursuant to section 1702.80 of the Revised Code, or 81849
police officer employed by a proprietary police department or 81850
security department of a hospital operated by a public hospital 81851
agency or nonprofit hospital agency pursuant to section 4973.17 of 81852
the Revised Code; 81853

(c) An officer, agent, or employee of the state or any of its 81854
agencies, instrumentalities, or political subdivisions, upon whom, 81855
by statute, a duty to conserve the peace or to enforce all or 81856
certain laws is imposed and the authority to arrest violators is 81857
conferred, within the limits of that statutory duty and authority; 81858

(d) A veterans' home police officer appointed under section 81859
5907.02 of the Revised Code; 81860

(e) A member of a police force employed by a regional transit 81861
authority under division (Y) of section 306.35 of the Revised 81862
Code. 81863

(5) "Motor vehicle accident" means any accident involving a 81864
motor vehicle which results in bodily injury to any person, or 81865
damage to the property of any person. 81866

(6) "Investigator" means an investigator of the bureau of 81867
criminal identification and investigation as defined in section 81868
2903.11 of the Revised Code. 81869

(B) No insurer shall consider the circumstance that an 81870
applicant or policyholder has been involved in a motor vehicle 81871
accident while in the pursuit of the applicant's or policyholder's 81872
official duties as a law enforcement officer, firefighter, 81873
investigator, or operator of an emergency vehicle or ambulance, 81874
while operating a vehicle engaged in mowing or snow and ice 81875
removal as a county, township, or department of transportation 81876
employee, or while operating a vehicle while engaged in the 81877
pursuit of the applicant's or policyholder's official duties as a 81878
member of the motor carrier enforcement unit of the state highway 81879

patrol under section 5503.34 of the Revised Code, as a basis for 81880
doing either of the following: 81881

(1) Refusing to issue or deliver a policy of insurance upon a 81882
private automobile, or increasing the rate to be charged for such 81883
a policy; 81884

(2) Increasing the premium rate, canceling, or failing to 81885
renew an existing policy of insurance upon a private automobile. 81886

(C) Any applicant or policyholder affected by an action of an 81887
insurer in violation of this section may appeal to the 81888
superintendent of insurance. After a hearing held upon not less 81889
than ten days' notice to the applicant or policyholder and to the 81890
insurer and if the superintendent determines that the insurer has 81891
violated this section, the superintendent may direct the issuance 81892
of a policy, decrease the premium rate on a policy, or reinstate 81893
insurance coverage. 81894

(D) The employer of the law enforcement officer, firefighter, 81895
investigator, or operator of an emergency vehicle or ambulance, 81896
operator of a vehicle engaged in mowing or snow and ice removal, 81897
or operator of a vehicle who is a member of the motor carrier 81898
enforcement unit, except as otherwise provided in division (F) of 81899
this section, shall certify to the state highway patrol or law 81900
enforcement agency that investigates the accident whether the 81901
officer, firefighter, investigator, or operator of an emergency 81902
vehicle or ambulance, operator of a vehicle engaged in mowing or 81903
snow and ice removal, or operator of a vehicle who is a member of 81904
the motor carrier enforcement unit, was engaged in the performance 81905
of the person's official duties as such employee at the time of 81906
the accident. The employer shall designate an official authorized 81907
to make the certifications. The state highway patrol or law 81908
enforcement agency shall include the certification in any report 81909
of the accident forwarded to the department of public safety 81910
pursuant to sections 5502.11 and 5502.12 of the Revised Code and 81911

shall forward the certification to the department if received 81912
after the report of the accident has been forwarded to the 81913
department. The registrar of motor vehicles shall not include an 81914
accident in a certified abstract of information under division (A) 81915
of section 4509.05 of the Revised Code, if the person involved has 81916
been so certified as having been engaged in the performance of the 81917
person's official duties at the time of the accident. 81918

(E) Division (B) of this section does not apply to an insurer 81919
whose policy covers the motor vehicle at the time the motor 81920
vehicle is involved in an accident described in division (B) of 81921
this section. 81922

(F) Division (B) of this section does not apply if an 81923
applicant or policyholder, on the basis of the applicant's or 81924
policyholder's involvement in an accident described in that 81925
division, is convicted of or pleads guilty or no contest to a 81926
violation of section 4511.19 of the Revised Code or a municipal 81927
OVI ordinance as defined in section 4511.181 of the Revised Code. 81928

Sec. 3963.01. As used in this chapter: 81929

(A) "Affiliate" means any person or entity that has ownership 81930
or control of a contracting entity, is owned or controlled by a 81931
contracting entity, or is under common ownership or control with a 81932
contracting entity. 81933

(B) "Basic health care services" has the same meaning as in 81934
division (A) of section 1751.01 of the Revised Code, except that 81935
it does not include any services listed in that division that are 81936
provided by a pharmacist or nursing home. 81937

(C) "Contracting entity" means any person that has a primary 81938
business purpose of contracting with participating providers for 81939
the delivery of health care services. 81940

(D) "Credentialing" means the process of assessing and 81941

validating the qualifications of a provider applying to be 81942
approved by a contracting entity to provide basic health care 81943
services, specialty health care services, or supplemental health 81944
care services to enrollees. 81945

(E) "Edit" means adjusting one or more procedure codes billed 81946
by a participating provider on a claim for payment or a practice 81947
that results in any of the following: 81948

(1) Payment for some, but not all of the procedure codes 81949
originally billed by a participating provider; 81950

(2) Payment for a different procedure code than the procedure 81951
code originally billed by a participating provider; 81952

(3) A reduced payment as a result of services provided to an 81953
enrollee that are claimed under more than one procedure code on 81954
the same service date. 81955

(F) "Electronic claims transport" means to accept and 81956
digitize claims or to accept claims already digitized, to place 81957
those claims into a format that complies with the electronic 81958
transaction standards issued by the United States department of 81959
health and human services pursuant to the "Health Insurance 81960
Portability and Accountability Act of 1996," 110 Stat. 1955, 42 81961
U.S.C. 1320d, et seq., as those electronic standards are 81962
applicable to the parties and as those electronic standards are 81963
updated from time to time, and to electronically transmit those 81964
claims to the appropriate contracting entity, payer, or 81965
third-party administrator. 81966

(G) "Enrollee" means any person eligible for health care 81967
benefits under a health benefit plan, including an eligible 81968
recipient of medicaid under Chapter 5111. of the Revised Code, and 81969
includes all of the following terms: 81970

(1) "Enrollee" and "subscriber" as defined by section 1751.01 81971
of the Revised Code; 81972

(2) "Member" as defined by section 1739.01 of the Revised Code;	81973 81974
(3) "Insured" and "plan member" pursuant to Chapter 3923. of the Revised Code;	81975 81976
(4) "Beneficiary" as defined by section 3901.38 of the Revised Code.	81977 81978
(H) "Health care contract" means a contract entered into, materially amended, or renewed between a contracting entity and a participating provider for the delivery of basic health care services, specialty health care services, or supplemental health care services to enrollees.	81979 81980 81981 81982 81983
(I) "Health care services" means basic health care services, specialty health care services, and supplemental health care services.	81984 81985 81986
(J) "Material amendment" means an amendment to a health care contract that decreases the participating provider's payment or compensation, changes the administrative procedures in a way that may reasonably be expected to significantly increase the provider's administrative expenses, or adds a new product. A material amendment does not include any of the following:	81987 81988 81989 81990 81991 81992
(1) A decrease in payment or compensation resulting solely from a change in a published fee schedule upon which the payment or compensation is based and the date of applicability is clearly identified in the contract;	81993 81994 81995 81996
(2) A decrease in payment or compensation that was anticipated under the terms of the contract, if the amount and date of applicability of the decrease is clearly identified in the contract;	81997 81998 81999 82000
(3) An administrative change that may significantly increase the provider's administrative expense, the specific applicability	82001 82002

of which is clearly identified in the contract;	82003
(4) Changes to an existing prior authorization,	82004
precertification, notification, or referral program that do not	82005
substantially increase the provider's administrative expense;	82006
(5) Changes to an edit program or to specific edits if the	82007
participating provider is provided notice of the changes pursuant	82008
to division (A)(1) of section 3963.04 of the Revised Code and the	82009
notice includes information sufficient for the provider to	82010
determine the effect of the change;	82011
(6) Changes to a health care contract described in division	82012
(B) of section 3963.04 of the Revised Code.	82013
(K) "Participating provider" means a provider that has a	82014
health care contract with a contracting entity and is entitled to	82015
reimbursement for health care services rendered to an enrollee	82016
under the health care contract.	82017
(L) "Payer" means any person that assumes the financial risk	82018
for the payment of claims under a health care contract or the	82019
reimbursement for health care services provided to enrollees by	82020
participating providers pursuant to a health care contract.	82021
(M) "Primary enrollee" means a person who is responsible for	82022
making payments for participation in a health care plan or an	82023
enrollee whose employment or other status is the basis of	82024
eligibility for enrollment in a health care plan.	82025
(N) "Procedure codes" includes the American medical	82026
association's current procedural terminology code, the American	82027
dental association's current dental terminology, and the centers	82028
for medicare and medicaid services health care common procedure	82029
coding system.	82030
(O) "Product" means one of the following types of categories	82031
of coverage for which a participating provider may be obligated to	82032

provide health care services pursuant to a health care contract:	82033
(1) A health maintenance organization or other product	82034
provided by a health insuring corporation;	82035
(2) A preferred provider organization;	82036
(3) Medicare;	82037
(4) Medicaid or the children's buy in program established	82038
under section 5101.5211 to 5101.5216 of the Revised Code;	82039
(5) Workers' compensation.	82040
(P) "Provider" means a physician, podiatrist, dentist,	82041
chiropractor, optometrist, psychologist, physician assistant,	82042
advanced practice nurse, occupational therapist, massage	82043
therapist, physical therapist, professional counselor,	82044
professional clinical counselor, hearing aid dealer, orthotist,	82045
prosthetist, home health agency, hospice care program, or	82046
hospital, or a provider organization or physician-hospital	82047
organization that is acting exclusively as an administrator on	82048
behalf of a provider to facilitate the provider's participation in	82049
health care contracts. "Provider" does not mean a pharmacist,	82050
pharmacy, nursing home, or a provider organization or	82051
physician-hospital organization that leases the provider	82052
organization's or physician-hospital organization's network to a	82053
third party or contracts directly with employers or health and	82054
welfare funds.	82055
(Q) "Specialty health care services" has the same meaning as	82056
in section 1751.01 of the Revised Code, except that it does not	82057
include any services listed in division (B) of section 1751.01 of	82058
the Revised Code that are provided by a pharmacist or a nursing	82059
home.	82060
(R) "Supplemental health care services" has the same meaning	82061
as in division (B) of section 1751.01 of the Revised Code, except	82062

that it does not include any services listed in that division that 82063
are provided by a pharmacist or nursing home. 82064

Sec. 3963.11. (A) No contracting entity shall do any of the 82065
following: 82066

(1) Offer to a provider ~~other than a hospital~~ a health care 82067
contract that includes a most favored nation clause; 82068

(2) Enter into a health care contract with a provider ~~other~~ 82069
~~than a hospital~~ that includes a most favored nation clause; 82070

(3) Amend or renew an existing health care contract 82071
previously entered into with a provider ~~other than a hospital~~ so 82072
that the contract as amended or renewed adds or continues to 82073
include a most favored nation clause. 82074

~~(B) This section shall not go into effect until three years~~ 82075
~~after the effective date of this section.~~ 82076

~~(C)~~(B) As used in this section: 82077

(1) "Contracting entity," "health care contract," "health 82078
care services," "participating provider," and "provider" have the 82079
same meanings as in section 3963.01 of the Revised Code. 82080

(2) "Most favored nation clause" means a provision in a 82081
health care contract that does any of the following: 82082

(a) Prohibits, or grants a contracting entity an option to 82083
prohibit, the participating provider from contracting with another 82084
contracting entity to provide health care services at a lower 82085
price than the payment specified in the contract; 82086

(b) Requires, or grants a contracting entity an option to 82087
require, the participating provider to accept a lower payment in 82088
the event the participating provider agrees to provide health care 82089
services to any other contracting entity at a lower price; 82090

(c) Requires, or grants a contracting entity an option to 82091

require, termination or renegotiation of the existing health care 82092
contract in the event the participating provider agrees to provide 82093
health care services to any other contracting entity at a lower 82094
price; 82095

(d) Requires the participating provider to disclose the 82096
participating provider's contractual reimbursement rates with 82097
other contracting entities. 82098

Sec. 4113.11. (A) As specified in division (B) of this 82099
section and except as provided in divisions (C) and ~~(F)~~(E) of this 82100
section, all employers that employ ten or more employees shall 82101
adopt and maintain a cafeteria plan that allows the employer's 82102
employees to pay for health insurance coverage by a salary 82103
reduction arrangement as permitted under section 125 of the 82104
Internal Revenue Code. 82105

(B) Employers shall comply with the requirements of division 82106
(A) of this section as follows: 82107

(1) For employers that employ more than five hundred 82108
employees, by not later than January 1, 2011, or six months after 82109
the superintendent of insurance adopts rules as required by 82110
division ~~(E)~~(D) of this section, whichever is later; 82111

(2) For employers that employ one hundred fifty to five 82112
hundred employees, by not later than July 1, 2011, or twelve 82113
months after the superintendent adopts rules as required by 82114
division ~~(E)~~(D) of this section, whichever is later; 82115

(3) For employers that employ ten to one hundred forty-nine 82116
employees, by not later than January 1, 2012, or eighteen months 82117
after the superintendent adopts rules as required by division 82118
~~(E)~~(D) of this section, whichever is later. 82119

(C) This section shall not apply to employers that, through 82120
other means than provided under this section, offer health 82121

insurance coverage, reimburse for health insurance coverage, or 82122
provide employees with opportunities to pay for health insurance 82123
with pre-tax dollars through other salary reduction arrangements. 82124

~~(D) The health care coverage and quality council created 82125
under section 3923.90 of the Revised Code shall make 82126
recommendations to the superintendent for both of the following: 82127~~

~~(1) Development of strategies to educate, assist, and conduct 82128
outreach to employers to simplify administrative processes with 82129
respect to creating and maintaining cafeteria plans, including, 82130
but not limited to, providing employers with model cafeteria plan 82131
documents and technical assistance on creating and maintaining 82132
cafeteria plans that conform with state and federal law; 82133~~

~~(2) Development of strategies to educate, assist, and conduct 82134
outreach to employees with respect to finding, selecting, and 82135
purchasing a health insurance plan to be paid for through their 82136
employer's cafeteria plan under this section. 82137~~

~~(E)(1) The superintendent shall adopt rules in accordance 82138
with Chapter 119. of the Revised Code to implement and enforce 82139
this section, including the strategies recommended by the council 82140
pursuant to division (D) of this section. 82141~~

(2) Prior to adopting rules under this division, the 82142
superintendent shall consult any federal agency that has oversight 82143
of cafeteria plans and employee welfare benefit plans, including 82144
the internal revenue service and the United States department of 82145
labor, and receive written confirmation that the rules adopted 82146
will permit employers to establish cafeteria plans in accordance 82147
with federal law. The written confirmation shall include a 82148
determination that individual policies purchased pursuant to this 82149
section do not need to comply with the group market rules 82150
established by the "Health Insurance Portability and 82151
Accountability Act of 1996." 82152

~~(F)~~(E) The requirement provided in division (A) of this 82153
section does not apply if the superintendent does not receive 82154
written confirmation pursuant to division ~~(F)~~(D)(2) of this 82155
section that individual policies purchased pursuant to this 82156
section do not need to comply with the group market rules 82157
established by the "Health Insurance Portability and 82158
Accountability Act of 1996." 82159

~~(G)~~(F) Nothing in this section shall be construed as 82160
requiring an employer to establish a cafeteria plan in a manner 82161
that would violate federal law, including the "Employee Retirement 82162
Income Security Act of 1974," the "Consolidated Omnibus Budget 82163
Reconciliation Act of 1985," or the "Health Insurance Portability 82164
and Accountability Act of 1996." 82165

~~(H)~~(G) As used in this section: 82166

(1) "Cafeteria plan" has the same meaning as in section 125 82167
of the Internal Revenue Code. 82168

(2) "Employer" has the same meaning as in section 4113.51 of 82169
the Revised Code. 82170

(3) "Employee" means an individual employed for consideration 82171
who works twenty-five or more hours per week or who renders any 82172
other standard of service generally accepted by custom or 82173
specified by contract as full-time employment, except for a public 82174
employee employed by a township or municipal corporation. In that 82175
case, "employee" means an individual hired with the expectation 82176
that the employee will work more than one thousand five hundred 82177
hours in any year unless full-time employment is defined 82178
differently in an applicable collective bargaining agreement. 82179

Sec. 4113.61. (A)(1) If a subcontractor or material supplier 82180
submits an application or request for payment or an invoice for 82181
materials to a contractor in sufficient time to allow the 82182

contractor to include the application, request, or invoice in the 82183
contractor's own pay request submitted to an owner, the 82184
contractor, within ten calendar days after receipt of payment from 82185
the owner for improvements to property, shall pay to the: 82186

(a) Subcontractor, an amount that is equal to the percentage 82187
of completion of the subcontractor's contract allowed by the owner 82188
for the amount of labor or work performed; 82189

(b) Material supplier, an amount that is equal to all or that 82190
portion of the invoice for materials which represents the 82191
materials furnished by the material supplier. 82192

The contractor may reduce the amount paid by any retainage 82193
provision contained in the contract, invoice, or purchase order 82194
between the contractor and the subcontractor or material supplier, 82195
and may withhold amounts that may be necessary to resolve disputed 82196
liens or claims involving the work or labor performed or material 82197
furnished by the subcontractor or material supplier. 82198

If the contractor fails to comply with division (A)(1) of 82199
this section, the contractor shall pay the subcontractor or 82200
material supplier, in addition to the payment due, interest in the 82201
amount of eighteen per cent per annum of the payment due, 82202
beginning on the eleventh day following the receipt of payment 82203
from the owner and ending on the date of full payment of the 82204
payment due plus interest to the subcontractor or material 82205
supplier. 82206

(2) If a lower tier subcontractor or lower tier material 82207
supplier submits an application or request for payment or an 82208
invoice for materials to a subcontractor, material supplier, or 82209
other lower tier subcontractor or lower tier material supplier in 82210
sufficient time to allow the subcontractor, material supplier, or 82211
other lower tier subcontractor or lower tier material supplier to 82212
include the application, request, or invoice in the 82213

subcontractor's, material supplier's, or other lower tier 82214
subcontractor's or lower tier material supplier's own pay request 82215
submitted to a contractor, other subcontractor, material supplier, 82216
lower tier subcontractor, or lower tier material supplier, the 82217
subcontractor, material supplier, or other lower tier 82218
subcontractor or lower tier material supplier, within ten calendar 82219
days after receipt of payment from the contractor, other 82220
subcontractor, material supplier, lower tier subcontractor, or 82221
lower tier material supplier for improvements to property, shall 82222
pay to the: 82223

(a) Lower tier subcontractor, an amount that is equal to the 82224
percentage of completion of the lower tier subcontractor's 82225
contract allowed by the owner for the amount of labor or work 82226
performed; 82227

(b) Lower tier material supplier, an amount that is equal to 82228
all or that portion of the invoice for materials which represents 82229
the materials furnished by the lower tier material supplier. 82230

The subcontractor, material supplier, lower tier 82231
subcontractor, or lower tier material supplier may reduce the 82232
amount paid by any retainage provision contained in the contract, 82233
invoice, or purchase order between the subcontractor, material 82234
supplier, lower tier subcontractor, or lower tier material 82235
supplier and the lower tier subcontractor or lower tier material 82236
supplier, and may withhold amounts that may be necessary to 82237
resolve disputed liens or claims involving the work or labor 82238
performed or material furnished by the lower tier subcontractor or 82239
lower tier material supplier. 82240

If the subcontractor, material supplier, lower tier 82241
subcontractor, or lower tier material supplier fails to comply 82242
with division (A)(2) of this section, the subcontractor, material 82243
supplier, lower tier subcontractor, or lower tier material 82244
supplier shall pay the lower tier subcontractor or lower tier 82245

material supplier, in addition to the payment due, interest in the 82246
amount of eighteen per cent per annum of the payment due, 82247
beginning on the eleventh day following the receipt of payment 82248
from the contractor, other subcontractor, material supplier, lower 82249
tier subcontractor, or lower tier material supplier and ending on 82250
the date of full payment of the payment due plus interest to the 82251
lower tier subcontractor or lower tier material supplier. 82252

(3) If a contractor receives any final retainage from the 82253
owner for improvements to property, the contractor shall pay from 82254
that retainage each subcontractor and material supplier the 82255
subcontractor's or material supplier's proportion of the 82256
retainage, within ten calendar days after receipt of the retainage 82257
from the owner, or within the time period provided in a contract, 82258
invoice, or purchase order between the contractor and the 82259
subcontractor or material supplier, whichever time period is 82260
shorter, provided that the contractor has determined that the 82261
subcontractor's or material supplier's work, labor, and materials 82262
have been satisfactorily performed or furnished and that the owner 82263
has approved the subcontractor's or material supplier's work, 82264
labor, and materials. 82265

If the contractor fails to pay a subcontractor or material 82266
supplier within the appropriate time period, the contractor shall 82267
pay the subcontractor or material supplier, in addition to the 82268
retainage due, interest in the amount of eighteen per cent per 82269
annum of the retainage due, beginning on the eleventh day 82270
following the receipt of the retainage from the owner and ending 82271
on the date of full payment of the retainage due plus interest to 82272
the subcontractor or material supplier. 82273

(4) If a subcontractor, material supplier, lower tier 82274
subcontractor, or lower tier material supplier receives any final 82275
retainage from the contractor or other subcontractor, lower tier 82276
subcontractor, or lower tier material supplier for improvements to 82277

property, the subcontractor, material supplier, lower tier 82278
subcontractor, or lower tier material supplier shall pay from that 82279
retainage each lower tier subcontractor or lower tier the lower 82280
tier subcontractor's or lower tier material supplier's proportion 82281
of the retainage, within ten calendar days after receipt of 82282
payment from the contractor or other subcontractor, lower tier 82283
subcontractor, or lower tier material supplier, or within the time 82284
period provided in a contract, invoice, or purchase order between 82285
the subcontractor, material supplier, lower tier subcontractor, or 82286
lower tier material supplier and the lower tier subcontractor or 82287
lower tier material supplier, whichever time period is shorter, 82288
provided that the subcontractor, material supplier, lower tier 82289
subcontractor, or lower tier material supplier has determined that 82290
the lower tier subcontractor's or lower tier material supplier's 82291
work, labor, and materials have been satisfactorily performed or 82292
furnished and that the owner has approved the lower tier 82293
subcontractor's or lower tier material supplier's work, labor, and 82294
materials. 82295

If the subcontractor, material supplier, lower tier 82296
subcontractor, or lower tier material supplier fails to pay the 82297
lower tier subcontractor or lower tier material supplier within 82298
the appropriate time period, the subcontractor, material supplier, 82299
lower tier subcontractor, or lower tier material supplier shall 82300
pay the lower tier subcontractor or lower tier material supplier, 82301
in addition to the retainage due, interest in the amount of 82302
eighteen per cent per annum of the retainage due, beginning on the 82303
eleventh day following the receipt of the retainage from the 82304
contractor or other subcontractor, lower tier subcontractor, or 82305
lower tier material supplier and ending on the date of full 82306
payment of the retainage due plus interest to the lower tier 82307
subcontractor or lower tier material supplier. 82308

(5) A contractor, subcontractor, or lower tier subcontractor 82309

shall pay a laborer wages due within ten days of payment of any 82310
application or request for payment or the receipt of any retainage 82311
from an owner, contractor, subcontractor, or lower tier 82312
subcontractor. 82313

If the contractor, subcontractor, or lower tier subcontractor 82314
fails to pay the laborer wages due within the appropriate time 82315
period, the contractor, subcontractor, or lower tier subcontractor 82316
shall pay the laborer, in addition to the wages due, interest in 82317
the amount of eighteen per cent per annum of the wages due, 82318
beginning on the eleventh day following the receipt of payment 82319
from the owner, contractor, subcontractor, or lower tier 82320
subcontractor and ending on the date of full payment of the wages 82321
due plus interest to the laborer. 82322

(B)(1) If a contractor, subcontractor, material supplier, 82323
lower tier subcontractor, or lower tier material supplier has not 82324
made payment in compliance with division (A)(1), (2), (3), (4), or 82325
(5) of this section within thirty days after payment is due, a 82326
subcontractor, material supplier, lower tier subcontractor, lower 82327
tier material supplier, or laborer may file a civil action to 82328
recover the amount due plus the interest provided in those 82329
divisions. If the court finds in the civil action that a 82330
contractor, subcontractor, material supplier, lower tier 82331
subcontractor, or lower tier material supplier has not made 82332
payment in compliance with those divisions, the court shall award 82333
the interest specified in those divisions, in addition to the 82334
amount due. Except as provided in division (B)(3) of this section, 82335
the court shall award the prevailing party reasonable attorney 82336
fees and court costs. 82337

(2) In making a determination to award attorney fees under 82338
division (B)(1) of this section, the court shall consider all 82339
relevant factors, including but not limited to the following: 82340

(a) The presence or absence of good faith allegations or 82341

defenses asserted by the parties; 82342

(b) The proportion of the amount of recovery as it relates to 82343
the amount demanded; 82344

(c) The nature of the services rendered and the time expended 82345
in rendering the services. 82346

(3) The court shall not award attorney fees under division 82347
(B)(1) of this section if the court determines, following a 82348
hearing on the payment of attorney fees, that the payment of 82349
attorney fees to the prevailing party would be inequitable. 82350

(C) This section does not apply to any construction or 82351
improvement of any single-, two-, or three-family detached 82352
dwelling houses. 82353

(D)(1) No provision of this section regarding entitlement to 82354
interest, attorney fees, or court costs may be waived by agreement 82355
and any such term in any contract or agreement is void and 82356
unenforceable as against public policy. 82357

(2) This section shall not be construed as impairing or 82358
affecting, in any way, the terms and conditions of any contract, 82359
invoice, purchase order, or any other agreement between a 82360
contractor and a subcontractor or a material supplier or between a 82361
subcontractor and another subcontractor, a material supplier, a 82362
lower tier subcontractor, or a lower tier material supplier, 82363
except that if such terms and conditions contain time periods 82364
which are longer than any of the time periods specified in 82365
divisions (A)(1), (2), (3), (4), and (5) of this section or 82366
interest at a percentage less than the interest stated in those 82367
divisions, then the provisions of this section shall prevail over 82368
such terms and conditions. 82369

(E) Notwithstanding the definition of lower tier material 82370
supplier in this section, a person is not a lower tier material 82371
supplier unless the materials supplied by the person are: 82372

(1) Furnished with the intent, as evidenced by the contract of sale, the delivery order, delivery to the site, or by other evidence that the materials are to be used on a particular structure or improvement;	82373 82374 82375 82376
(2) Incorporated in the improvement or consumed as normal wastage in the course of the improvement; or	82377 82378
(3) Specifically fabricated for incorporation in the improvement and not readily resalable in the ordinary course of the fabricator's business even if not actually incorporated in the improvement.	82379 82380 82381 82382
(F) As used in this section:	82383
(1) "Contractor" means any person who undertakes to construct, alter, erect, improve, repair, demolish, remove, dig, or drill any part of a structure or improvement under a contract with an owner, or a "construction manager" <u>or "construction manager at risk" as that term is those terms are defined in section 9.33 of the Revised Code, or a "design-build firm" as that term is defined in section 153.65 of the Revised Code.</u>	82384 82385 82386 82387 82388 82389 82390
(2) "Laborer," "material supplier," "subcontractor," and "wages" have the same meanings as in section 1311.01 of the Revised Code.	82391 82392 82393
(3) "Lower tier subcontractor" means a subcontractor who is not in privity of contract with a contractor but is in privity of contract with another subcontractor.	82394 82395 82396
(4) "Lower tier material supplier" means a material supplier who is not in privity of contract with a contractor but is in privity of contract with another subcontractor or a material supplier.	82397 82398 82399 82400
(5) "Wages due" means the wages due to a laborer as of the date a contractor or subcontractor receives payment for any	82401 82402

application or request for payment or retainage from any owner, 82403
contractor, or subcontractor. 82404

(6) "Owner" includes the state, and a county, township, 82405
municipal corporation, school district, or other political 82406
subdivision of the state, and any public agency, authority, board, 82407
commission, instrumentality, or special district of or in the 82408
state or a county, township, municipal corporation, school 82409
district, or other political subdivision of the state, and any 82410
officer or agent thereof and relates to all the interests either 82411
legal or equitable, which a person may have in the real estate 82412
upon which improvements are made, including interests held by any 82413
person under contracts of purchase, whether in writing or 82414
otherwise. 82415

Sec. 4115.03. As used in sections 4115.03 to 4115.16 of the 82416
Revised Code: 82417

(A) "Public authority" means any officer, board, or 82418
commission of the state, or any political subdivision of the 82419
state, authorized to enter into a contract for the construction of 82420
a public improvement or to construct the same by the direct 82421
employment of labor, or any institution supported in whole or in 82422
part by public funds and said sections apply to expenditures of 82423
such institutions made in whole or in part from public funds. 82424

(B) "Construction" means ~~either~~ any of the following: 82425

(1) ~~Any~~ Except as provided in division (B)(3) of this 82426
section, any new construction of ~~any~~ a public improvement, the 82427
total overall project cost of which is fairly estimated to be more 82428
than ~~fifty thousand dollars adjusted biennially by the director of~~ 82429
~~commerce pursuant to section 4115.034 of the Revised Code~~ the 82430
following amounts and performed by other than full-time employees 82431
who have completed their probationary periods in the classified 82432
service of a public authority+; 82433

(a) One hundred twenty-five thousand dollars, beginning on the effective date of this amendment and continuing for one year thereafter; 82434
82435
82436

(b) Two hundred thousand dollars, beginning when the time period described in division (B)(1)(a) of this section expires and continuing for one year thereafter; 82437
82438
82439

(c) Two hundred fifty thousand dollars, beginning when the time period described in division (B)(1)(b) of this section expires. 82440
82441
82442

(2) Any Except as provided in division (B)(4) of this section, any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of any a public improvement, the total overall project cost of which is fairly estimated to be more than fifteen thousand dollars adjusted biennially by the administrator pursuant to section 4115.034 of the Revised Code the following amounts and performed by other than full-time employees who have completed their probationary period in the classified civil service of a public authority; 82443
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(a) Thirty-eight thousand dollars, beginning on the effective date of this amendment and continuing for one year thereafter; 82452
82453

(b) Sixty thousand dollars, beginning when the time period described in division (B)(2)(a) of this section expires and continuing for one year thereafter; 82454
82455
82456

(c) Seventy-five thousand dollars, beginning when the time period described in division (B)(2)(b) of this section expires. 82457
82458

(3) Any new construction of a public improvement that involves roads, streets, alleys, sewers, ditches, and other works connected to road or bridge construction, the total overall project cost of which is fairly estimated to be more than seventy-eight thousand two hundred fifty-eight dollars adjusted biennially by the director of commerce pursuant to section 82459
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4115.034 of the Revised Code and performed by other than full-time 82465
employees who have completed their probationary periods in the 82466
classified service of a public authority; 82467

(4) Any reconstruction, enlargement, alteration, repair, 82468
remodeling, renovation, or painting of a public improvement that 82469
involves roads, streets, alleys, sewers, ditches, and other works 82470
connected to road or bridge construction, the total overall 82471
project cost of which is fairly estimated to be more than 82472
twenty-three thousand four hundred forty-seven dollars adjusted 82473
biennially by the director of commerce pursuant to section 82474
4115.034 of the Revised code and performed by other than full-time 82475
employees who have completed their probationary periods in the 82476
classified service of a public authority. 82477

(C) "Public improvement" includes all buildings, roads, 82478
streets, alleys, sewers, ditches, sewage disposal plants, water 82479
works, and all other structures or works constructed by a public 82480
authority of the state or any political subdivision thereof or by 82481
any person who, pursuant to a contract with a public authority, 82482
constructs any structure for a public authority of the state or a 82483
political subdivision thereof. When a public authority rents or 82484
leases a newly constructed structure within six months after 82485
completion of such construction, all work performed on such 82486
structure to suit it for occupancy by a public authority is a 82487
"public improvement." "Public improvement" does not include an 82488
improvement authorized by section 1515.08 of the Revised Code that 82489
is constructed pursuant to a contract with a soil and water 82490
conservation district, as defined in section 1515.01 of the 82491
Revised Code, or performed as a result of a petition filed 82492
pursuant to Chapter 6131., 6133., or 6135. of the Revised Code, 82493
wherein no less than seventy-five per cent of the project is 82494
located on private land and no less than seventy-five per cent of 82495
the cost of the improvement is paid for by private property owners 82496

pursuant to Chapter 1515., 6131., 6133., or 6135. of the Revised Code.	82497 82498
(D) "Locality" means the county wherein the physical work upon any public improvement is being performed.	82499 82500
(E) "Prevailing wages" means the sum of the following:	82501
(1) The basic hourly rate of pay;	82502
(2) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program;	82503 82504 82505
(3) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing the following fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected:	82506 82507 82508 82509 82510 82511
(a) Medical or hospital care or insurance to provide such;	82512
(b) Pensions on retirement or death or insurance to provide such;	82513 82514
(c) Compensation for injuries or illnesses resulting from occupational activities if it is in addition to that coverage required by Chapters 4121. and 4123. of the Revised Code;	82515 82516 82517
(d) Supplemental unemployment benefits that are in addition to those required by Chapter 4141. of the Revised Code;	82518 82519
(e) Life insurance;	82520
(f) Disability and sickness insurance;	82521
(g) Accident insurance;	82522
(h) Vacation and holiday pay;	82523
(i) Defraying of costs for apprenticeship or other similar training programs which are beneficial only to the laborers and	82524 82525

mechanics affected; 82526

(j) Other bona fide fringe benefits. 82527

None of the benefits enumerated in division (E)(3) of this 82528
section may be considered in the determination of prevailing wages 82529
if federal, state, or local law requires contractors or 82530
subcontractors to provide any of such benefits. 82531

(F) "Interested party," with respect to a particular contract 82532
for construction of a public improvement, means: 82533

(1) Any person who submits a bid for the purpose of securing 82534
the award of a the ~~contract for construction of the public~~ 82535
~~improvement~~; 82536

(2) Any person acting as a subcontractor of a person 82537
~~mentioned~~ described in division (F)(1) of this section; 82538

(3) Any bona fide organization of labor which has as members 82539
or is authorized to represent employees of a person ~~mentioned~~ 82540
described in division (F)(1) or (2) of this section and which 82541
exists, in whole or in part, for the purpose of negotiating with 82542
employers concerning the wages, hours, or terms and conditions of 82543
employment of employees; 82544

(4) Any association having as members any of the persons 82545
~~mentioned~~ described in division (F)(1) or (2) of this section. 82546

(G) Except as used in division (A) of this section, "officer" 82547
means an individual who has an ownership interest or holds an 82548
office of trust, command, or authority in a corporation, business 82549
trust, partnership, or association. 82550

Sec. 4115.033. No public authority shall subdivide a public 82551
improvement project into component parts or projects, the cost of 82552
which is fairly estimated to be less than the threshold levels set 82553
forth in ~~divisions~~ division (B)(~~1~~) and (~~2~~) of section 4115.03 of 82554
the Revised Code, unless the projects are conceptually separate 82555

and unrelated to each other, or encompass independent and 82556
unrelated needs of the public authority. 82557

Sec. 4115.034. On January 1, 1996, and the first day of 82558
January of every even-numbered year thereafter, the director of 82559
commerce shall adjust the threshold levels for which public 82560
improvement projects are subject to sections 4115.03 to 4115.16 of 82561
the Revised Code as set forth in divisions (B)~~(1)~~(3) and ~~(2)~~(4) of 82562
section 4115.03 of the Revised Code. The director shall adjust 82563
those amounts according to the average increase or decrease for 82564
each of the two years immediately preceding the adjustment as set 82565
forth in the United States department of commerce, bureau of the 82566
census implicit price deflator for construction, provided that no 82567
increase or decrease for any year shall exceed three per cent of 82568
the threshold level in existence at the time of the adjustment. 82569

Sec. 4115.04. (A)(1) Every public authority authorized to 82570
contract for or construct with its own forces a public 82571
improvement, before advertising for bids or undertaking such 82572
construction with its own forces, shall have the director of 82573
commerce determine the prevailing rates of wages of mechanics and 82574
laborers in accordance with section 4115.05 of the Revised Code 82575
for the class of work called for by the public improvement, in the 82576
locality where the work is to be performed. Except as provided in 82577
division (A)(2) of this section, that schedule of wages shall be 82578
attached to and made part of the specifications for the work, and 82579
shall be printed on the bidding blanks where the work is done by 82580
contract. A copy of the bidding blank shall be filed with the 82581
director before the contract is awarded. A minimum rate of wages 82582
for common laborers, on work coming under the jurisdiction of the 82583
department of transportation, shall be fixed in each county of the 82584
state by the department of transportation, in accordance with 82585
section 4115.05 of the Revised Code. 82586

(2) In the case of contracts that are administered by the department of natural resources, the director of natural resources or the director's designee shall include language in the contracts requiring wage rate determinations and updates to be obtained directly from the department of commerce through electronic or other means as appropriate. Contracts that include this requirement are exempt from the requirements established in division (A)(1) of this section that involve attaching the schedule of wages to the specifications for the work, making the schedule part of those specifications, and printing the schedule on the bidding blanks where the work is done by contract.

(B) Sections 4115.03 to 4115.16 of the Revised Code do not apply to:

(1) Public improvements in any case where the federal government or any of its agencies furnishes by loan or grant all or any part of the funds used in constructing such improvements, provided that the federal government or any of its agencies prescribes predetermined minimum wages to be paid to mechanics and laborers employed in the construction of such improvements;

(2) A participant in a work activity, developmental activity, or an alternative work activity under sections 5107.40 to 5107.69 of the Revised Code when a public authority directly uses the labor of the participant to construct a public improvement if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;

(3) Public improvements undertaken by, or under contract for, the board of education of any school district or the governing board of any educational service center;

(4) Public improvements undertaken by, or under contract for, a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of

the Revised Code if none of the funds used in constructing the 82618
improvements are the proceeds of bonds or other obligations that 82619
are secured by the full faith and credit of the state, a county, a 82620
township, or a municipal corporation and none of the funds used in 82621
constructing the improvements, including funds used to repay any 82622
amounts borrowed to construct the improvements, are funds that 82623
have been appropriated for that purpose by the state, a board of 82624
county commissioners, a township, or a municipal corporation from 82625
funds generated by the levy of a tax, provided that a county 82626
hospital or municipal hospital may elect to apply sections 4115.03 82627
to 4115.16 of the Revised Code to a public improvement undertaken 82628
by, or under contract for, the hospital; 82629

(5) Any project described in divisions (D)(1)(a) to (D)(1)(e) 82630
of section 176.05 of the Revised Code; 82631

(6) Public improvements undertaken by, or under contract for, 82632
a port authority as defined in section 4582.01 or 4582.21 of the 82633
Revised Code; 82634

(7) Any portion of a public improvement undertaken and 82635
completed solely with labor donated by the individuals performing 82636
the labor, by a labor organization and its members, or by a 82637
contractor or subcontractor that donates all labor and materials 82638
for that portion of the public improvement project. 82639

(C) Under no circumstances shall a public authority apply the 82640
prevailing wage requirements of this chapter to a public 82641
improvement that is exempt under division (B)(3) of this section. 82642

Sec. 4115.05. The prevailing rate of wages to be paid for a 82643
legal day's work, as prescribed in section 4115.04 of the Revised 82644
Code, to laborers, workers, or mechanics upon public works shall 82645
not be less at any time during the life of a contract for the 82646
public work than the prevailing rate of wages then payable in the 82647
same trade or occupation in the locality where such public work is 82648

being performed, under collective bargaining agreements or 82649
understandings, between employers and bona fide organizations of 82650
labor in force at the date the contract for the public work, 82651
relating to the trade or occupation, was made, and collective 82652
bargaining agreements or understandings successor thereto. 82653

Serving laborers, helpers, assistants and apprentices shall 82654
not be classified as common labor and shall be paid not less at 82655
any time during the life of a contract for the public work than 82656
the prevailing rate of wages then payable for such labor in the 82657
locality where the public work is being performed, under or as a 82658
result of collective bargaining agreements or understandings 82659
between employers and bona fide organizations of labor in force at 82660
the date the contract for the public work, requiring the 82661
employment of serving laborers, helpers, assistants, or 82662
apprentices, was made, and collective bargaining agreements or 82663
understandings successor thereto. 82664

Apprentices will be permitted to work only under a bona fide 82665
apprenticeship program if such program exists and is registered 82666
with the Ohio apprenticeship council. 82667

The allowable ratio of apprentices to skilled workers 82668
permitted to work shall not be greater than the ratio allowed the 82669
contractor or subcontractor in the collective bargaining agreement 82670
or understanding referred to in this section under which the work 82671
is being performed. A contractor, subcontractor, or public 82672
authority that exceeds the permissible ratio of apprentices to 82673
skilled workers by two or fewer apprentices for not more than two 82674
days in any thirty-day period shall not be found in violation of 82675
this provision with regard to that excess number of apprentices. 82676

For purposes of establishing the prevailing rate of wages, a 82677
labor organization that is a party to a collective bargaining 82678
agreement, contract, or understanding, including any successor 82679
agreement, contract, or understanding, that establishes wages for 82680

a trade or occupation typically employed on public improvements 82681
shall file with the director of commerce all relevant portions of 82682
any such agreement, contract, or understanding to which the labor 82683
organization is a party. The filing shall occur within ninety days 82684
after the agreement, contract, or understanding is executed, 82685
except that the relevant portion of any agreement, contract, or 82686
understanding to which a labor organization is a party on the 82687
effective date of this amendment shall be filed within ninety days 82688
after the effective date of this amendment. The labor organization 82689
shall certify under penalty of law that the portion of the 82690
agreement, contract, or understanding filed under this section 82691
contains, in full, all provisions of the agreement, contract, or 82692
understanding concerning wages paid to persons and the apprentice 82693
to skilled worker ratio under the agreement, contract, or 82694
understanding. 82695

In the event there is no such collective bargaining agreement 82696
or understanding in the immediate locality, then the prevailing 82697
rates of wages in the nearest locality in which such collective 82698
bargaining agreements or understandings are in effect shall be the 82699
prevailing rate of wages, in such locality, for the various 82700
occupations covered by sections 4115.03 to 4115.16 of the Revised 82701
Code. 82702

The prevailing rate of wages to be paid for a legal day's 82703
work, to laborers, workers, or mechanics, upon any material to be 82704
used in or in connection with a public work, shall be not less 82705
than the prevailing rate of wages payable for a day's work in the 82706
same trade or occupation in the locality within the state where 82707
such public work is being performed and where the material in its 82708
final or completed form is to be situated, erected, or used. 82709

Every contract for a public work shall contain a provision 82710
that each laborer, worker, or mechanic, employed by such 82711
contractor, subcontractor, or other person about or upon such 82712

public work, shall be paid the prevailing rate of wages provided 82713
in this section. 82714

No contractor or subcontractor under a contract for a public 82715
work shall sublet any of the work covered by such contract unless 82716
specifically authorized to do so by the contract. 82717

Where contracts are not awarded or construction undertaken 82718
within ninety days from the date of the establishment of the 82719
prevailing rate of wages, there shall be a redetermination of the 82720
prevailing rate of wages before the contract is awarded. ~~Upon~~ 82721
~~receipt from the director of commerce of a notice of a change in~~ 82722
~~prevailing wage rates, a~~ A public authority shall, within seven 82723
working days after ~~receipt thereof~~ receiving from the director a 82724
notice of a change in the prevailing wage rate, notify all 82725
affected contractors and subcontractors with whom the public 82726
authority has contracts for a public improvement of the changes 82727
and require the contractors to make the necessary adjustments in 82728
the prevailing wage rates. 82729

If, upon receipt of the relevant portions of a collective 82730
bargaining agreement, contract, or understanding, the director 82731
determines that the prevailing wage rate has changed in the 82732
locality in which an ongoing project is being constructed, any 82733
change in that rate shall take effect two weeks after the director 82734
receives the relevant portions of the agreement, contract, or 82735
understanding showing that the prevailing wage rate has changed. 82736

If the director determines that a contractor or subcontractor 82737
has violated sections 4115.03 to 4115.16 of the Revised Code 82738
because the public authority has not notified the contractor or 82739
subcontractor as required by this section, the public authority is 82740
liable for any back wages, fines, damages, court costs, and 82741
attorney's fees associated with the enforcement of said sections 82742
by the director for the period of time running until the public 82743
authority gives the required notice to the contractor or 82744

subcontractor. 82745

On the occasion of the first pay date under a contract, the 82746
contractor or subcontractor shall furnish each employee not 82747
covered by a collective bargaining agreement or understanding 82748
between employers and bona fide organizations of labor with 82749
individual written notification of the job classification to which 82750
the employee is assigned, the prevailing wage determined to be 82751
applicable to that classification, separated into the hourly rate 82752
of pay and the fringe payments, and the identity of the prevailing 82753
wage coordinator appointed by the public authority. The contractor 82754
or subcontractor shall furnish the same notification to each 82755
affected employee every time the job classification of the 82756
employee is changed. 82757

Sec. 4115.10. (A) No person, firm, corporation, or public 82758
authority that constructs a public improvement with its own 82759
forces, the total overall project cost of which is fairly 82760
estimated to be more than the amounts set forth in division (B)~~(1)~~ 82761
~~or (2)~~ of section 4115.03 of the Revised Code, adjusted biennially 82762
by the director of commerce pursuant to section 4115.034 of the 82763
Revised Code, as appropriate, shall violate the wage provisions of 82764
sections 4115.03 to 4115.16 of the Revised Code, or suffer, 82765
permit, or require any employee to work for less than the rate of 82766
wages so fixed, or violate the provisions of section 4115.07 of 82767
the Revised Code. Any employee upon any public improvement, except 82768
an employee to whom or on behalf of whom restitution is made 82769
pursuant to division (C) of section 4115.13 of the Revised Code, 82770
who is paid less than the fixed rate of wages applicable thereto 82771
may recover from such person, firm, corporation, or public 82772
authority that constructs a public improvement with its own forces 82773
the difference between the fixed rate of wages and the amount paid 82774
to the employee and in addition thereto a sum equal to twenty-five 82775
per cent of that difference. The person, firm, corporation, or 82776

public authority who fails to pay the rate of wages so fixed also 82777
shall pay a penalty to the director of seventy-five per cent of 82778
the difference between the fixed rate of wages and the amount paid 82779
to the employees on the public improvement. The director shall 82780
deposit all moneys received from penalties paid to the director 82781
pursuant to this section into the ~~penalty enforcement~~ labor 82782
operating fund, ~~which is hereby created in the state treasury~~. The 82783
director shall use the fund for the enforcement of sections 82784
4115.03 to 4115.16 of the Revised Code. The employee may file suit 82785
for recovery within ninety days of the director's determination of 82786
a violation of sections 4115.03 to 4115.16 of the Revised Code or 82787
is barred from further action under this division. Where the 82788
employee prevails in a suit, the employer shall pay the costs and 82789
reasonable attorney's fees allowed by the court. 82790

(B) Any employee upon any public improvement who is paid less 82791
than the prevailing rate of wages applicable thereto may file a 82792
complaint in writing with the director upon a form furnished by 82793
the director. The complaint shall include documented evidence to 82794
demonstrate that the employee was paid less than the prevailing 82795
wage in violation of this chapter. Upon receipt of a properly 82796
completed written complaint of any employee paid less than the 82797
prevailing rate of wages applicable, the director shall take an 82798
assignment of a claim in trust for the assigning employee and 82799
bring any legal action necessary to collect the claim. The 82800
employer shall pay the costs and reasonable attorney's fees 82801
allowed by the court if the employer is found in violation of 82802
sections 4115.03 to 4115.16 of the Revised Code. 82803

(C) If after investigation pursuant to section 4115.13 of the 82804
Revised Code, the director determines there is a violation of 82805
sections 4115.03 to 4115.16 of the Revised Code and a period of 82806
sixty days has elapsed from the date of the determination, and if: 82807

(1) No employee has brought suit pursuant to division (A) of 82808

this section; 82809

(2) No employee has requested that the director take an 82810
assignment of a wage claim pursuant to division (B) of this 82811
section. 82812

The director shall bring any legal action necessary to 82813
collect any amounts owed to employees and the director. The 82814
director shall pay over to the affected employees the amounts 82815
collected to which the affected employees are entitled under 82816
division (A) of this section. In any action in which the director 82817
prevails, the employer shall pay the costs and reasonable 82818
attorney's fees allowed by the court. 82819

(D) Where persons are employed and their rate of wages has 82820
been determined as provided in section 4115.04 of the Revised 82821
Code, no person, either for self or any other person, shall 82822
request, demand, or receive, either before or after the person is 82823
engaged, that the person so engaged pay back, return, donate, 82824
contribute, or give any part or all of the person's wages, salary, 82825
or thing of value, to any person, upon the statement, 82826
representation, or understanding that failure to comply with such 82827
request or demand will prevent the procuring or retaining of 82828
employment, and no person shall, directly or indirectly, aid, 82829
request, or authorize any other person to violate this section. 82830
This division does not apply to any agent or representative of a 82831
duly constituted labor organization acting in the collection of 82832
dues or assessments of such organization. 82833

(E) The director shall enforce sections 4115.03 to 4115.16 of 82834
the Revised Code. 82835

(F) For the purpose of supplementing existing resources and 82836
to assist in enforcing division (E) of this section, the director 82837
may contract with a person registered as a public accountant under 82838
Chapter 4701. of the Revised Code to conduct an audit of a person, 82839

firm, corporation, or public authority. 82840

(G) No contractor or subcontractor shall be responsible for 82841
the payment of the penalties provided in division (A) of this 82842
section resulting from a violation of sections 4115.03 to 4115.16 82843
of the Revised Code by its subcontractor, provided that the 82844
contractor or subcontractor has made a good faith effort to ensure 82845
that its subcontractor complied with the requirements of sections 82846
4115.03 to 4115.16 of the Revised Code. 82847

Sec. 4115.101. There is hereby created the prevailing wage 82848
custodial fund, which shall be in the custody of the treasurer of 82849
state but shall not be part of the state treasury. The director of 82850
commerce shall deposit to the fund all money paid by employers to 82851
the director that are held in trust for employees to whom 82852
prevailing wages are due and owing. The director shall make 82853
disbursements from the fund in accordance with this chapter to 82854
employees affected by violations of this chapter. If the director 82855
determines that any funds in the prevailing wage custodial fund 82856
are not returnable to employees as required under this section, 82857
then the director shall certify to the treasurer of state the 82858
amount of the funds that are not returnable. Upon the receipt of a 82859
certification from the director in accordance with this section, 82860
the treasurer of state shall transfer the certified amount of the 82861
funds from the prevailing wage custodial fund to the labor 82862
operating fund. 82863

Sec. 4115.13. (A) Upon the director's own motion or within 82864
five days of the filing of a properly completed complaint under 82865
section 4115.10 or 4115.16 of the Revised Code, the director of 82866
commerce, or a representative designated by the director, shall 82867
investigate any alleged violation of sections 4115.03 to 4115.16 82868
of the Revised Code. 82869

(B) At the conclusion of the investigation, the director or a designated representative shall make a ~~recommendation~~ determination as to whether the alleged violation was committed. If the director or designated representative ~~recommends~~ determines that the alleged violation was an intentional violation, the director or designated representative shall give written notice by certified mail of that ~~recommendation~~ determination to the contractor, subcontractor, or officer of the contractor or subcontractor which also shall state that the contractor, subcontractor, or officer of the contractor or subcontractor may file with the director an appeal of the ~~recommendation~~ determination within thirty days after the date the notice was received. If the contractor, subcontractor, or officer of the contractor or subcontractor timely appeals the ~~recommendation~~ determination, within sixty days of the filing of the appeal, the director or designated representative shall schedule the appeal for a hearing. If the contractor, subcontractor, or officer of the contractor or subcontractor fails to timely appeal the ~~recommendation~~ determination, the director or designated representative shall adopt the ~~recommendation~~ determination as a finding of fact for purposes of division (D) of this section. The director or designated representative, in the performance of any duty or execution of any power prescribed by sections 4115.03 to 4115.16 of the Revised Code, may hold hearings, and such hearings shall be held within the county in which the violation of sections 4115.03 to 4115.16 of the Revised Code is alleged to have been committed, or in Franklin county, whichever county the person alleged to have committed the violation chooses. For the purpose of the hearing, the director may designate a hearing examiner who shall, after notice to all interested parties, conduct a hearing and make findings of fact and recommendations to the director. The director shall make a decision, which shall be sent to the affected parties. The director or designated representative may

make decisions, based upon findings of fact, as are found 82903
necessary to enforce sections 4115.03 to 4115.16 of the Revised 82904
Code. 82905

(C) If any underpayment by a contractor or subcontractor was 82906
the result of a misinterpretation of the statute, or an erroneous 82907
preparation of the payroll documents, the director or designated 82908
representative may make a decision ordering the employer to make 82909
restitution to the employees, or on their behalf, the plans, 82910
funds, or programs for any type of fringe benefits described in 82911
the applicable wage determination. In accordance with the finding 82912
of the director that any underpayment was the result of a 82913
misinterpretation of the statute, or an erroneous preparation of 82914
the payroll documents, employers who make restitution are not 82915
subject to any further proceedings pursuant to sections 4115.03 to 82916
4115.16 of the Revised Code. 82917

If a contractor's or subcontractor's underpayment to an 82918
employee is less than one thousand dollars, the contractor or 82919
subcontractor is not subject to any further proceedings under 82920
sections 4115.03 to 4115.16 of the Revised Code for that 82921
underpayment if the contractor or subcontractor makes full 82922
restitution to the affected employee. 82923

(D) If the director or designated representative makes a 82924
decision, based upon findings of fact, that a contractor, 82925
subcontractor, or officer of a contractor or subcontractor has 82926
intentionally violated sections 4115.03 to 4115.16 of the Revised 82927
Code, the contractor, subcontractor, or officer of a contractor or 82928
subcontractor is prohibited from contracting directly or 82929
indirectly with any public authority for the construction of a 82930
public improvement or from performing any work on the same as 82931
provided in section 4115.133 of the Revised Code. A contractor, 82932
subcontractor, or officer of a contractor or subcontractor may 82933
appeal the decision, within sixty days after the decision, to the 82934

court of common pleas of the county in which the first hearing 82935
involving the violation was heard. If the contractor, 82936
subcontractor, or officer of a contractor or subcontractor does 82937
not timely appeal the ~~recommendation~~ determination of the director 82938
or designated representative under division (B) of this section, 82939
the contractor, subcontractor, or officer of a contractor or 82940
subcontractor may appeal the findings of fact, within sixty days 82941
after the ~~recommendations~~ determinations are adopted as findings 82942
of fact, to the court of common pleas within the county in which 82943
the violation of sections 4115.03 to 4115.16 of the Revised Code 82944
is alleged to have been committed or in Franklin county, whichever 82945
county the person alleged to have committed the violation chooses. 82946

(E) No appeal to the court from the decision of the director 82947
may be had by the contractor or subcontractor unless the 82948
contractor or subcontractor files a bond with the court in the 82949
amount of the restitution, conditioned upon payment should the 82950
decision of the director be upheld. 82951

(F) No statement of a contractor, subcontractor, or officer 82952
of a contractor or subcontractor and no determination, 82953
recommendation, or finding of fact issued under this section is 82954
admissible as evidence in a criminal action brought under this 82955
chapter against the contractor, subcontractor, or officer of a 82956
contractor or subcontractor. 82957

(G) In determining whether a contractor, subcontractor, or 82958
officer of a contractor or subcontractor intentionally violated 82959
sections 4115.03 to 4115.16 of the Revised Code, the director may 82960
consider as evidence either of the following: 82961

(1) The fact that the director, prior to the commission of 82962
the violation under consideration, issued notification to the 82963
contractor, subcontractor, or officer of a contractor or 82964
subcontractor of the same or a similar violation, provided that 82965
the commission of the same or a similar violation of sections 82966

4115.03 to 4115.16 of the Revised Code at a subsequent time does 82967
not create a presumption that the subsequent violation was 82968
intentional; 82969

(2) The fact that, prior to the commission of the violation, 82970
the contractor, subcontractor, or officer of a contractor or 82971
subcontractor used reasonable efforts to ascertain the correct 82972
interpretation of sections 4115.03 to 4115.16 of the Revised Code 82973
from the director or 4115.04 or 4115.131 of the Revised Code, 82974
provided that a violation is presumed not to be intentional where 82975
a contractor, subcontractor, or officer of a contractor or 82976
subcontractor complies with a decision the director or designated 82977
representative issues pursuant to a request made under section 82978
4115.131 of the Revised Code. 82979

(H) As used in this section, "intentional violation" means a 82980
willful, knowing, or deliberate failure to comply with any 82981
provision of sections 4115.03 to 4115.16 of the Revised Code, and 82982
includes, but is not limited to, the following actions when 82983
conducted in the manner described in this division: 82984

(1) An intentional failure to submit reports as required 82985
under division (C) of section 4115.071 of the Revised Code or 82986
knowingly submitting false or erroneous reports; 82987

(2) An intentional misclassification of employees for the 82988
purpose of reducing wages; 82989

(3) An intentional misclassification of employees as 82990
independent contractors or as apprentices; 82991

(4) An intentional failure to pay the prevailing wage; 82992

(5) An intentional failure to comply with the allowable ratio 82993
of apprentices to skilled workers as required under section 82994
4115.05 of the Revised Code and by rules adopted by the director 82995
pursuant to section 4115.12 of the Revised Code; 82996

(6) Intentionally allowing an officer of a contractor or subcontractor who is known to be prohibited from contracting directly or indirectly with a public authority for the construction of a public improvement or from performing any work on the same pursuant to section 4115.133 of the Revised Code to perform work on a public improvement.

Sec. 4115.16. (A) An interested party may file a complaint with the director of commerce alleging a specific violation of sections 4115.03 to 4115.16 of the Revised Code by a specific contractor or subcontractor. The complaint shall be in writing on a form furnished by the director and shall include sufficient evidence to justify the complaint. The director, upon receipt of a properly completed complaint, shall investigate pursuant to section 4115.13 of the Revised Code. The director shall not investigate any complaint filed under this section that fails to allege a specific violation or that lacks sufficient evidence to justify the complaint. If the director determines that no violation has occurred or that the violation was not intentional, the interested party may appeal the decision to the court of common pleas of the county where the violation is alleged to have occurred.

(B) ~~If~~ Except as otherwise provided in this section, the director or the designated representative shall conclude the investigation conducted under section 4115.13 of the Revised Code and make a determination not later than one hundred twenty days after the complaint is filed. The director or the designated representative may take additional time, of up to ninety days, to conclude the investigation and make a determination if the parties to the complaint are given notice of the extension before the initial one-hundred-twenty-day period expires. The director or the designated representative may take more time than that which is provided in this section to conclude the investigation and make a

determination if the director, or the designated representative, 83029
and all parties to the complaint agree to a different time frame. 83030

If the director has not ruled on the merits of the complaint 83031
within ~~sixty days after its filing,~~ the time provided under this 83032
section the interested party may file a complaint in the court of 83033
common pleas of the county in which the violation is alleged to 83034
have occurred. The complaint may make the contracting public 83035
authority a party to the action, but not the director. 83036
Contemporaneous with service of the complaint, the interested 83037
party shall deliver a copy of the complaint to the director. Upon 83038
receipt thereof, the director shall cease investigating or 83039
otherwise acting upon the complaint filed pursuant to division (A) 83040
of this section. The court in which the complaint is filed 83041
pursuant to this division shall hear and decide the case, and upon 83042
finding that a violation has occurred, shall make such orders as 83043
will prevent further violation and afford to injured persons the 83044
relief specified under sections 4115.03 to 4115.16 of the Revised 83045
Code. The court's finding that a violation has occurred shall have 83046
the same consequences as a like determination by the director. The 83047
court may order the director to take such action as will prevent 83048
further violation and afford to injured persons the remedies 83049
specified under sections 4115.03 to 4115.16 of the Revised Code. 83050
Upon receipt of any order of the court pursuant to this section, 83051
the director shall undertake enforcement action without further 83052
investigation or hearings. 83053

(C) The director shall make available to the parties to any 83054
appeal or action pursuant to this section all files, documents, 83055
affidavits, or other information in the director's possession that 83056
pertain to the matter. The rules generally applicable to civil 83057
actions in the courts of this state shall govern all appeals or 83058
actions under this section. Any determination of a court under 83059
this section is subject to appellate review. 83060

(D) Where, pursuant to this section, a court finds a violation of sections 4115.03 to 4115.16 of the Revised Code, the court shall award attorney fees and court costs to the prevailing party. In the event the court finds that no violation has occurred, the court may award court costs and ~~attorney~~ fees to the prevailing party, other than to the director or the public authority, where the court finds the action brought was unreasonable or without foundation, even though not brought in subjective bad faith.

Sec. 4116.01. As used in sections 4116.01 to 4116.04 of the Revised Code:

(A) "Public authority" means any officer, board, or commission of the state, or any political subdivision of the state, or any institution supported in whole or in part by public funds, authorized to enter into a contract for the construction of a public improvement or to construct a public improvement by the direct employment of labor. "Public authority" shall not mean any municipal corporation that has adopted a charter under sections three and seven of article XVIII of the Ohio ~~constitution~~ Constitution, unless the specific contract for a public improvement includes state funds appropriated for the purposes of that public improvement.

(B) "Construction" means all of the following:

(1) Any new construction of any public improvement performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority;

(2) Any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of any public improvement performed by other than full-time employees who have completed their probationary period in the classified civil service of a

public authority; 83092

(3) Construction on any project, facility, or project 83093
facility to which section ~~122.452~~, 122.80, ~~165.031~~, 166.02, 83094
~~1551.13~~, or 1728.07, ~~or 3706.042~~ of the Revised Code applies; 83095

(4) Construction on any project as defined in section 122.39 83096
of the Revised Code, any project as defined in section 165.01 of 83097
the Revised Code, any energy resource development facility as 83098
defined in section 1551.01 of the Revised Code, or any project as 83099
defined in section 3706.01 of the Revised Code. 83100

(C) "Public improvement" means all buildings, roads, streets, 83101
alleys, sewers, ditches, sewage disposal plants, water works, and 83102
other structures or works constructed by a public authority or by 83103
any person who, pursuant to a contract with a public authority, 83104
constructs any structure or work for a public authority. When a 83105
public authority rents or leases a newly constructed structure 83106
within six months after completion of its construction, all work 83107
performed on that structure to suit it for occupancy by a public 83108
authority is a "public improvement." 83109

(D) "Interested party," with respect to a particular public 83110
improvement, means all of the following: 83111

(1) Any person who submits a bid for the purpose of securing 83112
the award of a contract for the public improvement; 83113

(2) Any person acting as a subcontractor of a person 83114
mentioned in division (D)(1) of this section; 83115

(3) Any association having as members any of the persons 83116
mentioned in division (D)(1) or (2) of this section; 83117

(4) Any employee of a person mentioned in division (D)(1), 83118
(2), or (3) of this section; 83119

(5) Any individual who is a resident of the jurisdiction of 83120
the public authority for whom products or services for a public 83121

improvement are being procured or for whom work on a public 83122
improvement is being performed. 83123

Sec. 4117.01. As used in this chapter: 83124

(A) "Person," in addition to those included in division (C) 83125
of section 1.59 of the Revised Code, includes employee 83126
organizations, public employees, and public employers. 83127

(B) "Public employer" means the state or any political 83128
subdivision of the state located entirely within the state, 83129
including, without limitation, any municipal corporation with a 83130
population of at least five thousand according to the most recent 83131
federal decennial census; county; township with a population of at 83132
least five thousand in the unincorporated area of the township 83133
according to the most recent federal decennial census; school 83134
district; governing authority of a community school established 83135
under Chapter 3314. of the Revised Code; college preparatory 83136
boarding school established under Chapter 3328. of the Revised 83137
Code or its operator; state institution of higher learning; public 83138
or special district; state agency, authority, commission, or 83139
board; or other branch of public employment. "Public employer" 83140
does not include the nonprofit corporation formed under section 83141
187.01 of the Revised Code. 83142

(C) "Public employee" means any person holding a position by 83143
appointment or employment in the service of a public employer, 83144
including any person working pursuant to a contract between a 83145
public employer and a private employer and over whom the national 83146
labor relations board has declined jurisdiction on the basis that 83147
the involved employees are employees of a public employer, except: 83148

(1) Persons holding elective office; 83149

(2) Employees of the general assembly and employees of any 83150
other legislative body of the public employer whose principal 83151

duties are directly related to the legislative functions of the	83152
body;	83153
(3) Employees on the staff of the governor or the chief	83154
executive of the public employer whose principal duties are	83155
directly related to the performance of the executive functions of	83156
the governor or the chief executive;	83157
(4) Persons who are members of the Ohio organized militia,	83158
while training or performing duty under section 5919.29 or 5923.12	83159
of the Revised Code;	83160
(5) Employees of the state employment relations board,	83161
including those employees of the state employment relations board	83162
utilized by the state personnel board of review in the exercise of	83163
the powers and the performance of the duties and functions of the	83164
state personnel board of review;	83165
(6) Confidential employees;	83166
(7) Management level employees;	83167
(8) Employees and officers of the courts, assistants to the	83168
attorney general, assistant prosecuting attorneys, and employees	83169
of the clerks of courts who perform a judicial function;	83170
(9) Employees of a public official who act in a fiduciary	83171
capacity, appointed pursuant to section 124.11 of the Revised	83172
Code;	83173
(10) Supervisors;	83174
(11) Students whose primary purpose is educational training,	83175
including graduate assistants or associates, residents, interns,	83176
or other students working as part-time public employees less than	83177
fifty per cent of the normal year in the employee's bargaining	83178
unit;	83179
(12) Employees of county boards of election;	83180
(13) Seasonal and casual employees as determined by the state	83181

employment relations board;	83182
(14) Part-time faculty members of an institution of higher education;	83183 83184
(15) Participants in a work activity, developmental activity, or alternative work activity under sections 5107.40 to 5107.69 of the Revised Code who perform a service for a public employer that the public employer needs but is not performed by an employee of the public employer if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;	83185 83186 83187 83188 83189 83190
(16) Employees included in the career professional service of the department of transportation under section 5501.20 of the Revised Code;	83191 83192 83193
(17) Employees of community-based correctional facilities and district community-based correctional facilities created under sections 2301.51 to 2301.58 of the Revised Code who are not subject to a collective bargaining agreement on June 1, 2005.	83194 83195 83196 83197
(D) "Employee organization" means any labor or bona fide organization in which public employees participate and that exists for the purpose, in whole or in part, of dealing with public employers concerning grievances, labor disputes, wages, hours, terms, and other conditions of employment.	83198 83199 83200 83201 83202
(E) "Exclusive representative" means the employee organization certified or recognized as an exclusive representative under section 4117.05 of the Revised Code.	83203 83204 83205
(F) "Supervisor" means any individual who has authority, in the interest of the public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees; to responsibly direct them; to adjust their grievances; or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment, provided	83206 83207 83208 83209 83210 83211 83212

that: 83213

(1) Employees of school districts who are department 83214
chairpersons or consulting teachers shall not be deemed 83215
supervisors; 83216

(2) With respect to members of a police or fire department, 83217
no person shall be deemed a supervisor except the chief of the 83218
department or those individuals who, in the absence of the chief, 83219
are authorized to exercise the authority and perform the duties of 83220
the chief of the department. Where prior to June 1, 1982, a public 83221
employer pursuant to a judicial decision, rendered in litigation 83222
to which the public employer was a party, has declined to engage 83223
in collective bargaining with members of a police or fire 83224
department on the basis that those members are supervisors, those 83225
members of a police or fire department do not have the rights 83226
specified in this chapter for the purposes of future collective 83227
bargaining. The state employment relations board shall decide all 83228
disputes concerning the application of division (F)(2) of this 83229
section. 83230

(3) With respect to faculty members of a state institution of 83231
higher education, heads of departments or divisions are 83232
supervisors; however, no other faculty member or group of faculty 83233
members is a supervisor solely because the faculty member or group 83234
of faculty members participate in decisions with respect to 83235
courses, curriculum, personnel, or other matters of academic 83236
policy; 83237

(4) No teacher as defined in section 3319.09 of the Revised 83238
Code shall be designated as a supervisor or a management level 83239
employee unless the teacher is employed under a contract governed 83240
by section 3319.01, 3319.011, or 3319.02 of the Revised Code and 83241
is assigned to a position for which a license deemed to be for 83242
administrators under state board rules is required pursuant to 83243
section 3319.22 of the Revised Code. 83244

(G) "To bargain collectively" means to perform the mutual obligation of the public employer, by its representatives, and the representatives of its employees to negotiate in good faith at reasonable times and places with respect to wages, hours, terms, and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, with the intention of reaching an agreement, or to resolve questions arising under the agreement. "To bargain collectively" includes executing a written contract incorporating the terms of any agreement reached. The obligation to bargain collectively does not mean that either party is compelled to agree to a proposal nor does it require the making of a concession.

(H) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Strike" does not include a stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment that are abnormal to the place of employment.

(I) "Unauthorized strike" includes, but is not limited to, concerted action during the term or extended term of a collective bargaining agreement or during the pendency of the settlement procedures set forth in section 4117.14 of the Revised Code in failing to report to duty; willful absence from one's position; stoppage of work; slowdown, or abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Unauthorized strike" includes any such action, absence, stoppage, slowdown, or abstinence when done partially or intermittently,

whether during or after the expiration of the term or extended 83277
term of a collective bargaining agreement or during or after the 83278
pendency of the settlement procedures set forth in section 4117.14 83279
of the Revised Code. 83280

(J) "Professional employee" means any employee engaged in 83281
work that is predominantly intellectual, involving the consistent 83282
exercise of discretion and judgment in its performance and 83283
requiring knowledge of an advanced type in a field of science or 83284
learning customarily acquired by a prolonged course in an 83285
institution of higher learning or a hospital, as distinguished 83286
from a general academic education or from an apprenticeship; or an 83287
employee who has completed the courses of specialized intellectual 83288
instruction and is performing related work under the supervision 83289
of a professional person to become qualified as a professional 83290
employee. 83291

(K) "Confidential employee" means any employee who works in 83292
the personnel offices of a public employer and deals with 83293
information to be used by the public employer in collective 83294
bargaining; or any employee who works in a close continuing 83295
relationship with public officers or representatives directly 83296
participating in collective bargaining on behalf of the employer. 83297

(L) "Management level employee" means an individual who 83298
formulates policy on behalf of the public employer, who 83299
responsibly directs the implementation of policy, or who may 83300
reasonably be required on behalf of the public employer to assist 83301
in the preparation for the conduct of collective negotiations, 83302
administer collectively negotiated agreements, or have a major 83303
role in personnel administration. Assistant superintendents, 83304
principals, and assistant principals whose employment is governed 83305
by section 3319.02 of the Revised Code are management level 83306
employees. With respect to members of a faculty of a state 83307
institution of higher education, no person is a management level 83308

employee because of the person's involvement in the formulation or 83309
implementation of academic or institution policy. 83310

(M) "Wages" means hourly rates of pay, salaries, or other 83311
forms of compensation for services rendered. 83312

(N) "Member of a police department" means a person who is in 83313
the employ of a police department of a municipal corporation as a 83314
full-time regular police officer as the result of an appointment 83315
from a duly established civil service eligibility list or under 83316
section 737.15 or 737.16 of the Revised Code, a full-time deputy 83317
sheriff appointed under section 311.04 of the Revised Code, a 83318
township constable appointed under section 509.01 of the Revised 83319
Code, or a member of a township or joint police district police 83320
department appointed under section 505.49 of the Revised Code. 83321

(O) "Members of the state highway patrol" means highway 83322
patrol troopers and radio operators appointed under section 83323
5503.01 of the Revised Code. 83324

(P) "Member of a fire department" means a person who is in 83325
the employ of a fire department of a municipal corporation or a 83326
township as a fire cadet, full-time regular firefighter, or 83327
promoted rank as the result of an appointment from a duly 83328
established civil service eligibility list or under section 83329
505.38, 709.012, or 737.22 of the Revised Code. 83330

(Q) "Day" means calendar day. 83331

Sec. 4117.03. (A) Public employees have the right to: 83332

(1) Form, join, assist, or participate in, or refrain from 83333
forming, joining, assisting, or participating in, except as 83334
otherwise provided in Chapter 4117. of the Revised Code, any 83335
employee organization of their own choosing; 83336

(2) Engage in other concerted activities for the purpose of 83337
collective bargaining or other mutual aid and protection; 83338

(3) Representation by an employee organization; 83339

(4) Bargain collectively with their public employers to 83340
determine wages, hours, terms and other conditions of employment 83341
and the continuation, modification, or deletion of an existing 83342
provision of a collective bargaining agreement, and enter into 83343
collective bargaining agreements; 83344

(5) Present grievances and have them adjusted, without the 83345
intervention of the bargaining representative, as long as the 83346
adjustment is not inconsistent with the terms of the collective 83347
bargaining agreement then in effect and as long as the bargaining 83348
representatives have the opportunity to be present at the 83349
adjustment. 83350

(B) Persons on active duty or acting in any capacity as 83351
members of the organized militia do not have collective bargaining 83352
rights. 83353

(C) Except as provided in division (D) of this section, 83354
nothing in Chapter 4117. of the Revised Code prohibits public 83355
employers from electing to engage in collective bargaining, to 83356
meet and confer, to hold discussions, or to engage in any other 83357
form of collective negotiations with public employees who are not 83358
subject to Chapter 4117. of the Revised Code pursuant to division 83359
(C) of section 4117.01 of the Revised Code. 83360

(D) A public employer shall not engage in collective 83361
bargaining or other forms of collective negotiations with the 83362
employees of county boards of elections referred to in division 83363
(C)(12) of section 4117.01 of the Revised Code. 83364

(E) Employees of public schools may bargain collectively for 83365
health care benefits; ~~however, all health care benefits shall~~ 83366
~~include best practices prescribed by the school employees health~~ 83367
~~care board, in accordance with section 9.901 of the Revised Code.~~ 83368

Sec. 4121.03. (A) The governor shall appoint from among the 83369
members of the industrial commission the chairperson of the 83370
industrial commission. The chairperson shall serve as chairperson 83371
at the pleasure of the governor. The chairperson is the head of 83372
the commission and its chief executive officer. 83373

(B) The chairperson shall appoint, after consultation with 83374
other commission members and obtaining the approval of at least 83375
one other commission member, an executive director of the 83376
commission. The executive director shall serve at the pleasure of 83377
the chairperson. The executive director, under the direction of 83378
the chairperson, shall perform all of the following duties: 83379

(1) Act as chief administrative officer for the commission; 83380

(2) Ensure that all commission personnel follow the rules of 83381
the commission; 83382

(3) Ensure that all orders, awards, and determinations are 83383
properly heard and signed, prior to attesting to the documents; 83384

(4) Coordinate, to the fullest extent possible, commission 83385
activities with the bureau of workers' compensation activities; 83386

(5) Do all things necessary for the efficient and effective 83387
implementation of the duties of the commission. 83388

The responsibilities assigned to the executive director of 83389
the commission do not relieve the chairperson from final 83390
responsibility for the proper performance of the acts specified in 83391
this division. 83392

(C) The chairperson shall do all of the following: 83393

(1) Except as otherwise provided in this division, employ, 83394
promote, supervise, remove, and establish the compensation of all 83395
employees as needed in connection with the performance of the 83396
commission's duties under this chapter and Chapters 4123., 4127., 83397
and 4131. of the Revised Code and may assign to them their duties 83398

to the extent necessary to achieve the most efficient performance 83399
of its functions, and to that end may establish, change, or 83400
abolish positions, and assign and reassign duties and 83401
responsibilities of every employee of the commission. The civil 83402
service status of any person employed by the commission prior to 83403
November 3, 1989, is not affected by this section. Personnel 83404
employed by the bureau or the commission who are subject to 83405
Chapter 4117. of the Revised Code shall retain all of their rights 83406
and benefits conferred pursuant to that chapter as it presently 83407
exists or is hereafter amended and nothing in this chapter or 83408
Chapter 4123. of the Revised Code shall be construed as 83409
eliminating or interfering with Chapter 4117. of the Revised Code 83410
or the rights and benefits conferred under that chapter to public 83411
employees or to any bargaining unit. 83412

(2) Hire district and staff hearing officers after 83413
consultation with other commission members and obtaining the 83414
approval of at least one other commission member; 83415

(3) Hire staff and district hearing officers when the 83416
chairperson finds appropriate after obtaining the approval of at 83417
least one other commission member; 83418

(4) Maintain the office for the commission in Columbus; 83419

(5) To the maximum extent possible, use electronic data 83420
processing equipment for the issuance of orders immediately 83421
following a hearing, scheduling of hearings and medical 83422
examinations, tracking of claims, retrieval of information, and 83423
any other matter within the commission's jurisdiction, and shall 83424
provide and input information into the electronic data processing 83425
equipment as necessary to effect the success of the claims 83426
tracking system established pursuant to division (B)(15) of 83427
section 4121.121 of the Revised Code; 83428

(6) Exercise all administrative and nonadjudicatory powers 83429

and duties conferred upon the commission by Chapters 4121., 4123., 83430
4127., and 4131. of the Revised Code; 83431

(7) Approve all contracts for special services. 83432

(D) The chairperson is responsible for all administrative 83433
matters and may secure for the commission facilities, equipment, 83434
and supplies necessary to house the commission, any employees, and 83435
files and records under the commission's control and to discharge 83436
any duty imposed upon the commission by law, the expense thereof 83437
to be audited and paid in the same manner as other state expenses. 83438
For that purpose, the chairperson, separately from the budget 83439
prepared by the administrator of workers' compensation ~~and the~~ 83440
~~budget prepared by the director of the workers' compensation~~ 83441
~~council~~, shall prepare and submit to the office of budget and 83442
management a budget for each biennium according to sections 83443
101.532 and 107.03 of the Revised Code. The budget submitted shall 83444
cover the costs of the commission and staff and district hearing 83445
officers in the discharge of any duty imposed upon the 83446
chairperson, the commission, and hearing officers by law. 83447

(E) A majority of the commission constitutes a quorum to 83448
transact business. No vacancy impairs the rights of the remaining 83449
members to exercise all of the powers of the commission, so long 83450
as a majority remains. Any investigation, inquiry, or hearing that 83451
the commission may hold or undertake may be held or undertaken by 83452
or before any one member of the commission, or before one of the 83453
deputies of the commission, except as otherwise provided in this 83454
chapter and Chapters 4123., 4127., and 4131. of the Revised Code. 83455
Every order made by a member, or by a deputy, when approved and 83456
confirmed by a majority of the members, and so shown on its record 83457
of proceedings, is the order of the commission. The commission may 83458
hold sessions at any place within the state. The commission is 83459
responsible for all of the following: 83460

(1) Establishing the overall adjudicatory policy and 83461

management of the commission under this chapter and Chapters 83462
4123., 4127., and 4131. of the Revised Code, except for those 83463
administrative matters within the jurisdiction of the chairperson, 83464
bureau of workers' compensation, and the administrator of workers' 83465
compensation under those chapters; 83466

(2) Hearing appeals and reconsiderations under this chapter 83467
and Chapters 4123., 4127., and 4131. of the Revised Code; 83468

(3) Engaging in rulemaking where required by this chapter or 83469
Chapter 4123., 4127., or 4131. of the Revised Code. 83470

Sec. 4121.12. (A) There is hereby created the bureau of 83471
workers' compensation board of directors consisting of eleven 83472
members to be appointed by the governor with the advice and 83473
consent of the senate. One member shall be an individual who, on 83474
account of the individual's previous vocation, employment, or 83475
affiliations, can be classed as a representative of employees; two 83476
members shall be individuals who, on account of their previous 83477
vocation, employment, or affiliations, can be classed as 83478
representatives of employee organizations and at least one of 83479
these two individuals shall be a member of the executive committee 83480
of the largest statewide labor federation; three members shall be 83481
individuals who, on account of their previous vocation, 83482
employment, or affiliations, can be classed as representatives of 83483
employers, one of whom represents self-insuring employers, one of 83484
whom is a state fund employer who employs one hundred or more 83485
employees, and one of whom is a state fund employer who employs 83486
less than one hundred employees; two members shall be individuals 83487
who, on account of their vocation, employment, or affiliations, 83488
can be classed as investment and securities experts who have 83489
direct experience in the management, analysis, supervision, or 83490
investment of assets and are residents of this state; one member 83491
who shall be a certified public accountant; one member who shall 83492

be an actuary who is a member in good standing with the American 83493
academy of actuaries or who is an associate or fellow with the 83494
casualty actuarial society; and one member shall represent the 83495
public and also be an individual who, on account of the 83496
individual's previous vocation, employment, or affiliations, 83497
cannot be classed as either predominantly representative of 83498
employees or of employers. The governor shall select the 83499
chairperson of the board who shall serve as chairperson at the 83500
pleasure of the governor. 83501

None of the members of the board, within one year immediately 83502
preceding the member's appointment, shall have been employed by 83503
the bureau of workers' compensation or by any person, partnership, 83504
or corporation that has provided to the bureau services of a 83505
financial or investment nature, including the management, 83506
analysis, supervision, or investment of assets. 83507

(B) Of the initial appointments made to the board, the 83508
governor shall appoint the member who represents employees, one 83509
member who represents employers, and the member who represents the 83510
public to a term ending one year after June 11, 2007; one member 83511
who represents employers, one member who represents employee 83512
organizations, one member who is an investment and securities 83513
expert, and the member who is a certified public accountant to a 83514
term ending two years after June 11, 2007; and one member who 83515
represents employers, one member who represents employee 83516
organizations, one member who is an investment and securities 83517
expert, and the member who is an actuary to a term ending three 83518
years after June 11, 2007. Thereafter, terms of office shall be 83519
for three years, with each term ending on the same day of the same 83520
month as did the term that it succeeds. Each member shall hold 83521
office from the date of the member's appointment until the end of 83522
the term for which the member was appointed. 83523

Members may be reappointed. Any member appointed to fill a 83524

vacancy occurring prior to the expiration date of the term for 83525
which the member's predecessor was appointed shall hold office as 83526
a member for the remainder of that term. A member shall continue 83527
in office subsequent to the expiration date of the member's term 83528
until a successor takes office or until a period of sixty days has 83529
elapsed, whichever occurs first. 83530

(C) In making appointments to the board, the governor shall 83531
select the members from the list of names submitted by the 83532
workers' compensation board of directors nominating committee 83533
pursuant to this division. The nominating committee shall submit 83534
to the governor a list containing four separate names for each of 83535
the members on the board. Within fourteen days after the 83536
submission of the list, the governor shall appoint individuals 83537
from the list. 83538

At least thirty days prior to a vacancy occurring as a result 83539
of the expiration of a term and within thirty days after other 83540
vacancies occurring on the board, the nominating committee shall 83541
submit an initial list containing four names for each vacancy. 83542
Within fourteen days after the submission of the initial list, the 83543
governor either shall appoint individuals from that list or 83544
request the nominating committee to submit another list of four 83545
names for each member the governor has not appointed from the 83546
initial list, which list the nominating committee shall submit to 83547
the governor within fourteen days after the governor's request. 83548
The governor then shall appoint, within seven days after the 83549
submission of the second list, one of the individuals from either 83550
list to fill the vacancy for which the governor has not made an 83551
appointment from the initial list. If the governor appoints an 83552
individual to fill a vacancy occurring as a result of the 83553
expiration of a term, the individual appointed shall begin serving 83554
as a member of the board when the term for which the individual's 83555
predecessor was appointed expires or immediately upon appointment 83556

by the governor, whichever occurs later. With respect to the 83557
filling of vacancies, the nominating committee shall provide the 83558
governor with a list of four individuals who are, in the judgment 83559
of the nominating committee, the most fully qualified to accede to 83560
membership on the board. 83561

In order for the name of an individual to be submitted to the 83562
governor under this division, the nominating committee shall 83563
approve the individual by an affirmative vote of a majority of its 83564
members. 83565

(D) All members of the board shall receive their reasonable 83566
and necessary expenses pursuant to section 126.31 of the Revised 83567
Code while engaged in the performance of their duties as members 83568
and also shall receive an annual salary not to exceed sixty 83569
thousand dollars in total, payable on the following basis: 83570

(1) Except as provided in division (D)(2) of this section, a 83571
member shall receive two thousand five hundred dollars during a 83572
month in which the member attends one or more meetings of the 83573
board and shall receive no payment during a month in which the 83574
member attends no meeting of the board. 83575

(2) A member may receive no more than thirty thousand dollars 83576
per year to compensate the member for attending meetings of the 83577
board, regardless of the number of meetings held by the board 83578
during a year or the number of meetings in excess of twelve within 83579
a year that the member attends. 83580

(3) Except as provided in division (D)(4) of this section, if 83581
a member serves on the workers' compensation audit committee, 83582
workers' compensation actuarial committee, or the workers' 83583
compensation investment committee, the member shall receive two 83584
thousand five hundred dollars during a month in which the member 83585
attends one or more meetings of the committee on which the member 83586
serves and shall receive no payment during any month in which the 83587

member attends no meeting of that committee. 83588

(4) A member may receive no more than thirty thousand dollars 83589
per year to compensate the member for attending meetings of any of 83590
the committees specified in division (D)(3) of this section, 83591
regardless of the number of meetings held by a committee during a 83592
year or the number of committees on which a member serves. 83593

The chairperson of the board shall set the meeting dates of 83594
the board as necessary to perform the duties of the board under 83595
this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of 83596
the Revised Code. The board shall meet at least twelve times a 83597
year. The administrator of workers' compensation shall provide 83598
professional and clerical assistance to the board, as the board 83599
considers appropriate. 83600

(E) Before entering upon the duties of office, each appointed 83601
member of the board shall take an oath of office as required by 83602
sections 3.22 and 3.23 of the Revised Code and file in the office 83603
of the secretary of state the bond required under section 4121.127 83604
of the Revised Code. 83605

(F) The board shall: 83606

(1) Establish the overall administrative policy for the 83607
bureau for the purposes of this chapter and Chapters 4123., 4125., 83608
4127., 4131., and 4167. of the Revised Code; 83609

(2) Review progress of the bureau in meeting its cost and 83610
quality objectives and in complying with this chapter and Chapters 83611
4123., 4125., 4127., 4131., and 4167. of the Revised Code; 83612

(3) Submit an annual report to the president of the senate, 83613
the speaker of the house of representatives, and the governor, ~~and~~ 83614
~~the workers' compensation council~~ and include all of the following 83615
in that report: 83616

(a) An evaluation of the cost and quality objectives of the 83617

bureau;	83618
(b) A statement of the net assets available for the provision of compensation and benefits under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code as of the last day of the fiscal year;	83619 83620 83621 83622
(c) A statement of any changes that occurred in the net assets available, including employer premiums and net investment income, for the provision of compensation and benefits and payment of administrative expenses, between the first and last day of the fiscal year immediately preceding the date of the report;	83623 83624 83625 83626 83627
(d) The following information for each of the six consecutive fiscal years occurring previous to the report:	83628 83629
(i) A schedule of the net assets available for compensation and benefits;	83630 83631
(ii) The annual cost of the payment of compensation and benefits;	83632 83633
(iii) Annual administrative expenses incurred;	83634
(iv) Annual employer premiums allocated for the provision of compensation and benefits.	83635 83636
(e) A description of any significant changes that occurred during the six years for which the board provided the information required under division (F)(3)(d) of this section that affect the ability of the board to compare that information from year to year.	83637 83638 83639 83640 83641
(4) Review all independent financial audits of the bureau. The administrator shall provide access to records of the bureau to facilitate the review required under this division.	83642 83643 83644
(5) Study issues as requested by the administrator or the governor;	83645 83646
(6) Contract with all of the following:	83647

- (a) An independent actuarial firm to assist the board in making recommendations to the administrator regarding premium rates; 83648
83649
83650
- (b) An outside investment counsel to assist the workers' compensation investment committee in fulfilling its duties; 83651
83652
- (c) An independent fiduciary counsel to assist the board in the performance of its duties. 83653
83654
- (7) Approve the investment policy developed by the workers' compensation investment committee pursuant to section 4121.129 of the Revised Code if the policy satisfies the requirements specified in section 4123.442 of the Revised Code. 83655
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- (8) Review and publish the investment policy no less than annually and make copies available to interested parties. 83659
83660
- (9) Prohibit, on a prospective basis, any specific investment it finds to be contrary to the investment policy approved by the board. 83661
83662
83663
- (10) Vote to open each investment class and allow the administrator to invest in an investment class only if the board, by a majority vote, opens that class; 83664
83665
83666
- (11) After opening a class but prior to the administrator investing in that class, adopt rules establishing due diligence standards for employees of the bureau to follow when investing in that class and establish policies and procedures to review and monitor the performance and value of each investment class; 83667
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- (12) Submit a report annually on the performance and value of each investment class to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives, ~~and the workers' compensation council.~~ 83672
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83675
- (13) Advise and consent on all of the following: 83676
- (a) Administrative rules the administrator submits to it 83677

pursuant to division (B)(5) of section 4121.121 of the Revised Code for the classification of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating;

(b) The duties and authority conferred upon the administrator pursuant to section 4121.37 of the Revised Code;

(c) Rules the administrator adopts for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code;

(d) Rules the administrator submits to it pursuant to Chapter 4167. of the Revised Code regarding the public employment risk reduction program and the protection of public health care workers from exposure incidents.

As used in this division, "public health care worker" and "exposure incident" have the same meanings as in section 4167.25 of the Revised Code.

(14) Perform all duties required under this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;

(15) Meet with the governor on an annual basis to discuss the administrator's performance of the duties specified in this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;

(16) Develop and participate in a bureau of workers' compensation board of directors education program that consists of all of the following:

(a) An orientation component for newly appointed members;

(b) A continuing education component for board members who have served for at least one year;

(c) A curriculum that includes education about each of the following topics:	83708
	83709
(i) Board member duties and responsibilities;	83710
(ii) Compensation and benefits paid pursuant to this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;	83711
	83712
(iii) Ethics;	83713
(iv) Governance processes and procedures;	83714
(v) Actuarial soundness;	83715
(vi) Investments;	83716
(vii) Any other subject matter the board believes is reasonably related to the duties of a board member.	83717
	83718
(17) Submit the program developed pursuant to division (F)(16) of this section to the workers' compensation council for approval;	83719
	83720
	83721
(18) Hold all sessions, classes, and other events for the program developed pursuant to division (F)(16) of this section in this state.	83722
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	83724
(G) The board may do both of the following:	83725
(1) Vote to close any investment class;	83726
(2) Create any committees in addition to the workers' compensation audit committee, the workers' compensation actuarial committee, and the workers' compensation investment committee that the board determines are necessary to assist the board in performing its duties.	83727
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(H) The office of a member of the board who is convicted of or pleads guilty to a felony, a theft offense as defined in section 2913.01 of the Revised Code, or a violation of section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be	83732
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deemed vacant. The vacancy shall be filled in the same manner as 83737
the original appointment. A person who has pleaded guilty to or 83738
been convicted of an offense of that nature is ineligible to be a 83739
member of the board. A member who receives a bill of indictment 83740
for any of the offenses specified in this section shall be 83741
automatically suspended from the board pending resolution of the 83742
criminal matter. 83743

(I) For the purposes of division (G)(1) of section 121.22 of 83744
the Revised Code, the meeting between the governor and the board 83745
to review the administrator's performance as required under 83746
division (F)(15) of this section shall be considered a meeting 83747
regarding the employment of the administrator. 83748

Sec. 4121.121. (A) There is hereby created the bureau of 83749
workers' compensation, which shall be administered by the 83750
administrator of workers' compensation. A person appointed to the 83751
position of administrator shall possess significant management 83752
experience in effectively managing an organization or 83753
organizations of substantial size and complexity. A person 83754
appointed to the position of administrator also shall possess a 83755
minimum of five years of experience in the field of workers' 83756
compensation insurance or in another insurance industry, except as 83757
otherwise provided when the conditions specified in division (C) 83758
of this section are satisfied. The governor shall appoint the 83759
administrator as provided in section 121.03 of the Revised Code, 83760
and the administrator shall serve at the pleasure of the governor. 83761
The governor shall fix the administrator's salary on the basis of 83762
the administrator's experience and the administrator's 83763
responsibilities and duties under this chapter and Chapters 4123., 83764
4125., 4127., 4131., and 4167. of the Revised Code. The governor 83765
shall not appoint to the position of administrator any person who 83766
has, or whose spouse has, given a contribution to the campaign 83767
committee of the governor in an amount greater than one thousand 83768

dollars during the two-year period immediately preceding the date 83769
of the appointment of the administrator. 83770

The administrator shall hold no other public office and shall 83771
devote full time to the duties of administrator. Before entering 83772
upon the duties of the office, the administrator shall take an 83773
oath of office as required by sections 3.22 and 3.23 of the 83774
Revised Code, and shall file in the office of the secretary of 83775
state, a bond signed by the administrator and by surety approved 83776
by the governor, for the sum of fifty thousand dollars payable to 83777
the state, conditioned upon the faithful performance of the 83778
administrator's duties. 83779

(B) The administrator is responsible for the management of 83780
the bureau and for the discharge of all administrative duties 83781
imposed upon the administrator in this chapter and Chapters 4123., 83782
4125., 4127., 4131., and 4167. of the Revised Code, and in the 83783
discharge thereof shall do all of the following: 83784

(1) Perform all acts and exercise all authorities and powers, 83785
discretionary and otherwise that are required of or vested in the 83786
bureau or any of its employees in this chapter and Chapters 4123., 83787
4125., 4127., 4131., and 4167. of the Revised Code, except the 83788
acts and the exercise of authority and power that is required of 83789
and vested in the bureau of workers' compensation board of 83790
directors or the industrial commission pursuant to those chapters. 83791
The treasurer of state shall honor all warrants signed by the 83792
administrator, or by one or more of the administrator's employees, 83793
authorized by the administrator in writing, or bearing the 83794
facsimile signature of the administrator or such employee under 83795
sections 4123.42 and 4123.44 of the Revised Code. 83796

(2) Employ, direct, and supervise all employees required in 83797
connection with the performance of the duties assigned to the 83798
bureau by this chapter and Chapters 4123., 4125., 4127., 4131., 83799
and 4167. of the Revised Code, including an actuary, and may 83800

establish job classification plans and compensation for all 83801
employees of the bureau provided that this grant of authority 83802
shall not be construed as affecting any employee for whom the 83803
state employment relations board has established an appropriate 83804
bargaining unit under section 4117.06 of the Revised Code. All 83805
positions of employment in the bureau are in the classified civil 83806
service except those employees the administrator may appoint to 83807
serve at the administrator's pleasure in the unclassified civil 83808
service pursuant to section 124.11 of the Revised Code. The 83809
administrator shall fix the salaries of employees the 83810
administrator appoints to serve at the administrator's pleasure, 83811
including the chief operating officer, staff physicians, and other 83812
senior management personnel of the bureau and shall establish the 83813
compensation of staff attorneys of the bureau's legal section and 83814
their immediate supervisors, and take whatever steps are necessary 83815
to provide adequate compensation for other staff attorneys. 83816

The administrator may appoint a person who holds a certified 83817
position in the classified service within the bureau to a position 83818
in the unclassified service within the bureau. A person appointed 83819
pursuant to this division to a position in the unclassified 83820
service shall retain the right to resume the position and status 83821
held by the person in the classified service immediately prior to 83822
the person's appointment in the unclassified service, regardless 83823
of the number of positions the person held in the unclassified 83824
service. An employee's right to resume a position in the 83825
classified service may only be exercised when the administrator 83826
demotes the employee to a pay range lower than the employee's 83827
current pay range or revokes the employee's appointment to the 83828
unclassified service. An employee forfeits the right to resume a 83829
position in the classified service when the employee is removed 83830
from the position in the unclassified service due to incompetence, 83831
inefficiency, dishonesty, drunkenness, immoral conduct, 83832
insubordination, discourteous treatment of the public, neglect of 83833

duty, violation of this chapter or Chapter 124., 4123., 4125., 83834
4127., 4131., or 4167. of the Revised Code, violation of the rules 83835
of the director of administrative services or the administrator, 83836
any other failure of good behavior, any other acts of misfeasance, 83837
malfeasance, or nonfeasance in office, or conviction of a felony. 83838
An employee also forfeits the right to resume a position in the 83839
classified service upon transfer to a different agency. 83840

Reinstatement to a position in the classified service shall 83841
be to a position substantially equal to that position in the 83842
classified service held previously, as certified by the department 83843
of administrative services. If the position the person previously 83844
held in the classified service has been placed in the unclassified 83845
service or is otherwise unavailable, the person shall be appointed 83846
to a position in the classified service within the bureau that the 83847
director of administrative services certifies is comparable in 83848
compensation to the position the person previously held in the 83849
classified service. Service in the position in the unclassified 83850
service shall be counted as service in the position in the 83851
classified service held by the person immediately prior to the 83852
person's appointment in the unclassified service. When a person is 83853
reinstated to a position in the classified service as provided in 83854
this division, the person is entitled to all rights, status, and 83855
benefits accruing to the position during the person's time of 83856
service in the position in the unclassified service. 83857

(3) Reorganize the work of the bureau, its sections, 83858
departments, and offices to the extent necessary to achieve the 83859
most efficient performance of its functions and to that end may 83860
establish, change, or abolish positions and assign and reassign 83861
duties and responsibilities of every employee of the bureau. All 83862
persons employed by the commission in positions that, after 83863
November 3, 1989, are supervised and directed by the administrator 83864
under this section are transferred to the bureau in their 83865

respective classifications but subject to reassignment and 83866
reclassification of position and compensation as the administrator 83867
determines to be in the interest of efficient administration. The 83868
civil service status of any person employed by the commission is 83869
not affected by this section. Personnel employed by the bureau or 83870
the commission who are subject to Chapter 4117. of the Revised 83871
Code shall retain all of their rights and benefits conferred 83872
pursuant to that chapter as it presently exists or is hereafter 83873
amended and nothing in this chapter or Chapter 4123. of the 83874
Revised Code shall be construed as eliminating or interfering with 83875
Chapter 4117. of the Revised Code or the rights and benefits 83876
conferred under that chapter to public employees or to any 83877
bargaining unit. 83878

(4) Provide offices, equipment, supplies, and other 83879
facilities for the bureau. 83880

(5) Prepare and submit to the board information the 83881
administrator considers pertinent or the board requires, together 83882
with the administrator's recommendations, in the form of 83883
administrative rules, for the advice and consent of the board, for 83884
classifications of occupations or industries, for premium rates 83885
and contributions, for the amount to be credited to the surplus 83886
fund, for rules and systems of rating, rate revisions, and merit 83887
rating. The administrator shall obtain, prepare, and submit any 83888
other information the board requires for the prompt and efficient 83889
discharge of its duties. 83890

(6) Keep the accounts required by division (A) of section 83891
4123.34 of the Revised Code and all other accounts and records 83892
necessary to the collection, administration, and distribution of 83893
the workers' compensation funds and shall obtain the statistical 83894
and other information required by section 4123.19 of the Revised 83895
Code. 83896

(7) Exercise the investment powers vested in the 83897

administrator by section 4123.44 of the Revised Code in accordance 83898
with the investment policy approved by the board pursuant to 83899
section 4121.12 of the Revised Code and in consultation with the 83900
chief investment officer of the bureau of workers' compensation. 83901
The administrator shall not engage in any prohibited investment 83902
activity specified by the board pursuant to division (F)(9) of 83903
section 4121.12 of the Revised Code and shall not invest in any 83904
type of investment specified in divisions (B)(1) to (10) of 83905
section 4123.442 of the Revised Code. All business shall be 83906
transacted, all funds invested, all warrants for money drawn and 83907
payments made, and all cash and securities and other property 83908
held, in the name of the bureau, or in the name of its nominee, 83909
provided that nominees are authorized by the administrator solely 83910
for the purpose of facilitating the transfer of securities, and 83911
restricted to the administrator and designated employees. 83912

(8) Make contracts for and supervise the construction of any 83913
project or improvement or the construction or repair of buildings 83914
under the control of the bureau. 83915

(9) Purchase supplies, materials, equipment, and services; 83916
make contracts for, operate, and superintend the telephone, other 83917
telecommunication, and computer services for the use of the 83918
bureau; and make contracts in connection with office reproduction, 83919
forms management, printing, and other services. Notwithstanding 83920
sections 125.12 to 125.14 of the Revised Code, the administrator 83921
may transfer surplus computers and computer equipment directly to 83922
an accredited public school within the state. The computers and 83923
computer equipment may be repaired or refurbished prior to the 83924
transfer. 83925

(10) Prepare and submit to the board an annual budget for 83926
internal operating purposes for the board's approval. The 83927
administrator also shall, separately from the budget the 83928
industrial commission submits ~~and from the budget the director of~~ 83929

~~the workers' compensation council submits~~, prepare and submit to 83930
the director of budget and management a budget for each biennium. 83931
The budgets submitted to the board and the director shall include 83932
estimates of the costs and necessary expenditures of the bureau in 83933
the discharge of any duty imposed by law. 83934

(11) As promptly as possible in the course of efficient 83935
administration, decentralize and relocate such of the personnel 83936
and activities of the bureau as is appropriate to the end that the 83937
receipt, investigation, determination, and payment of claims may 83938
be undertaken at or near the place of injury or the residence of 83939
the claimant and for that purpose establish regional offices, in 83940
such places as the administrator considers proper, capable of 83941
discharging as many of the functions of the bureau as is 83942
practicable so as to promote prompt and efficient administration 83943
in the processing of claims. All active and inactive lost-time 83944
claims files shall be held at the service office responsible for 83945
the claim. A claimant, at the claimant's request, shall be 83946
provided with information by telephone as to the location of the 83947
file pertaining to the claimant's claim. The administrator shall 83948
ensure that all service office employees report directly to the 83949
director for their service office. 83950

(12) Provide a written binder on new coverage where the 83951
administrator considers it to be in the best interest of the risk. 83952
The administrator, or any other person authorized by the 83953
administrator, shall grant the binder upon submission of a request 83954
for coverage by the employer. A binder is effective for a period 83955
of thirty days from date of issuance and is nonrenewable. Payroll 83956
reports and premium charges shall coincide with the effective date 83957
of the binder. 83958

(13) Set standards for the reasonable and maximum handling 83959
time of claims payment functions, ensure, by rules, the impartial 83960
and prompt treatment of all claims and employer risk accounts, and 83961

establish a secure, accurate method of time stamping all incoming 83962
mail and documents hand delivered to bureau employees. 83963

(14) Ensure that all employees of the bureau follow the 83964
orders and rules of the commission as such orders and rules relate 83965
to the commission's overall adjudicatory policy-making and 83966
management duties under this chapter and Chapters 4123., 4127., 83967
and 4131. of the Revised Code. 83968

(15) Manage and operate a data processing system with a 83969
common data base for the use of both the bureau and the commission 83970
and, in consultation with the commission, using electronic data 83971
processing equipment, shall develop a claims tracking system that 83972
is sufficient to monitor the status of a claim at any time and 83973
that lists appeals that have been filed and orders or 83974
determinations that have been issued pursuant to section 4123.511 83975
or 4123.512 of the Revised Code, including the dates of such 83976
filings and issuances. 83977

(16) Establish and maintain a medical section within the 83978
bureau. The medical section shall do all of the following: 83979

(a) Assist the administrator in establishing standard medical 83980
fees, approving medical procedures, and determining eligibility 83981
and reasonableness of the compensation payments for medical, 83982
hospital, and nursing services, and in establishing guidelines for 83983
payment policies which recognize usual, customary, and reasonable 83984
methods of payment for covered services; 83985

(b) Provide a resource to respond to questions from claims 83986
examiners for employees of the bureau; 83987

(c) Audit fee bill payments; 83988

(d) Implement a program to utilize, to the maximum extent 83989
possible, electronic data processing equipment for storage of 83990
information to facilitate authorizations of compensation payments 83991
for medical, hospital, drug, and nursing services; 83992

(e) Perform other duties assigned to it by the administrator. 83993

(17) Appoint, as the administrator determines necessary, 83994
panels to review and advise the administrator on disputes arising 83995
over a determination that a health care service or supply provided 83996
to a claimant is not covered under this chapter or Chapter 4123., 83997
4127., or 4131. of the Revised Code or is medically unnecessary. 83998
If an individual health care provider is involved in the dispute, 83999
the panel shall consist of individuals licensed pursuant to the 84000
same section of the Revised Code as such health care provider. 84001

(18) Pursuant to section 4123.65 of the Revised Code, approve 84002
applications for the final settlement of claims for compensation 84003
or benefits under this chapter and Chapters 4123., 4127., and 84004
4131. of the Revised Code as the administrator determines 84005
appropriate, except in regard to the applications of self-insuring 84006
employers and their employees. 84007

(19) Comply with section 3517.13 of the Revised Code, and 84008
except in regard to contracts entered into pursuant to the 84009
authority contained in section 4121.44 of the Revised Code, comply 84010
with the competitive bidding procedures set forth in the Revised 84011
Code for all contracts into which the administrator enters 84012
provided that those contracts fall within the type of contracts 84013
and dollar amounts specified in the Revised Code for competitive 84014
bidding and further provided that those contracts are not 84015
otherwise specifically exempt from the competitive bidding 84016
procedures contained in the Revised Code. 84017

(20) Adopt, with the advice and consent of the board, rules 84018
for the operation of the bureau. 84019

(21) Prepare and submit to the board information the 84020
administrator considers pertinent or the board requires, together 84021
with the administrator's recommendations, in the form of 84022
administrative rules, for the advice and consent of the board, for 84023

the health partnership program and the qualified health plan 84024
system, as provided in sections 4121.44, 4121.441, and 4121.442 of 84025
the Revised Code. 84026

(C) The administrator, with the advice and consent of the 84027
senate, shall appoint a chief operating officer who has a minimum 84028
of five years of experience in the field of workers' compensation 84029
insurance or in another similar insurance industry if the 84030
administrator does not possess such experience. The chief 84031
operating officer shall not commence the chief operating officer's 84032
duties until after the senate consents to the chief operating 84033
officer's appointment. The chief operating officer shall serve in 84034
the unclassified civil service of the state. 84035

Sec. 4121.125. (A) The bureau of workers' compensation board 84036
of directors, based upon recommendations of the workers' 84037
compensation actuarial committee, may contract with one or more 84038
outside actuarial firms and other professional persons, as the 84039
board determines necessary, to assist the board in measuring the 84040
performance of Ohio's workers' compensation system and in 84041
comparing Ohio's workers' compensation system to other state and 84042
private workers' compensation systems. The board, actuarial firm 84043
or firms, and professional persons shall make such measurements 84044
and comparisons using accepted insurance industry standards, 84045
including, but not limited to, standards promulgated by the 84046
National Council on Compensation Insurance. 84047

(B) The board may contract with one or more outside firms to 84048
conduct management and financial audits of the workers' 84049
compensation system, including audits of the reserve fund 84050
belonging to the state insurance fund, and to establish objective 84051
quality management principles and methods by which to review the 84052
performance of the workers' compensation system. 84053

(C) The board shall do all of the following: 84054

(1) Contract to have prepared annually by or under the supervision of an actuary a report that meets the requirements specified under division (E) of this section and that consists of an actuarial valuation of the assets, liabilities, and funding requirements of the state insurance fund and all other funds specified in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;

(2) Require that the actuary or person supervised by an actuary referred to in division (C)(1) of this section complete the valuation in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries;

(3) Submit the report referred to in division (C)(1) of this section to the ~~workers' compensation council and the~~ standing committees of the house of representatives and the senate with primary responsibility for workers' compensation legislation on or before the first day of November following the year for which the valuation was made;

(4) Have an actuary or a person who provides actuarial services under the supervision of an actuary, at such time as the board determines, and at least once during the five-year period that commences on September 10, 2007, and once within each five-year period thereafter, conduct an actuarial investigation of the experience of employers, the mortality, service, and injury rate of employees, and the payment of temporary total disability, permanent partial disability, and permanent total disability under sections 4123.56 to 4123.58 of the Revised Code to update the actuarial assumptions used in the report required by division (C)(1) of this section;

(5) Submit the report required under division (F) of this section to the ~~council and the~~ standing committees of the house of representatives and the senate with primary responsibility for

workers' compensation legislation not later than the first day of 84087
November following the fifth year of the period that the report 84088
covers; 84089

(6) Have prepared by or under the supervision of an actuary 84090
an actuarial analysis of any introduced legislation expected to 84091
have a measurable financial impact on the workers' compensation 84092
system; 84093

(7) Submit the report required under division (G) of this 84094
section to the legislative service commission, and the standing 84095
committees of the house of representatives and the senate with 84096
primary responsibility for workers' compensation legislation, ~~and~~ 84097
~~the council~~ not later than sixty days after the date of 84098
introduction of the legislation. 84099

(D) The administrator of workers' compensation and the 84100
industrial commission shall compile information and provide access 84101
to records of the bureau and the industrial commission to the 84102
board to the extent necessary for fulfillment of both of the 84103
following requirements: 84104

(1) Conduct of the measurements and comparisons described in 84105
division (A) of this section; 84106

(2) Conduct of the management and financial audits and 84107
establishment of the principles and methods described in division 84108
(B) of this section. 84109

(E) The firm or person with whom the board contracts pursuant 84110
to division (C)(1) of this section shall prepare a report of the 84111
valuation and submit the report to the board. The firm or person 84112
shall include all of the following information in the report that 84113
is required under division (C)(1) of this section: 84114

(1) A summary of the compensation and benefit provisions 84115
evaluated; 84116

(2) A description of the actuarial assumptions and actuarial cost method used in the valuation;	84117 84118
(3) A schedule showing the effect of any changes in the compensation and benefit provisions, actuarial assumptions, or cost methods since the previous annual actuarial valuation report was submitted to the board.	84119 84120 84121 84122
(F) The actuary or person whom the board designates to conduct an actuarial investigation under division (C)(4) of this section shall prepare a report of the actuarial investigation and shall submit the report to the board. The actuary or person shall prepare the report and make any recommended changes in actuarial assumptions in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary or person shall include all of the following information in the report:	84123 84124 84125 84126 84127 84128 84129 84130 84131
(1) A summary of relevant decrement and economic assumption experience;	84132 84133
(2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (C)(1) of this section;	84134 84135 84136
(3) A measurement of the financial effect of the recommended changes in actuarial assumptions.	84137 84138
(G) The actuary or person whom the board designates to conduct the actuarial analysis under division (C)(6) of this section shall prepare a report of the actuarial analysis and shall submit that report to the board. The actuary or person shall complete the analysis in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary or person shall include all of the following information in the report:	84139 84140 84141 84142 84143 84144 84145 84146
(1) A summary of the statutory changes being evaluated;	84147

(2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;	84148 84149
(3) A description of the participant group or groups included in the report;	84150 84151
(4) A statement of the financial impact of the legislation, including the resulting increase, if any, in employer premiums, in actuarial accrued liabilities, and, if an increase in actuarial accrued liabilities is predicted, the per cent of premium increase that would be required to amortize the increase in those liabilities as a level per cent of employer premiums over a period not to exceed thirty years.	84152 84153 84154 84155 84156 84157 84158
(5) A statement of whether the employer premiums paid to the bureau of workers' compensation after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.	84159 84160 84161 84162
(H) The board may, at any time, request an actuary to make any studies or actuarial valuations to determine the adequacy of the premium rates established by the administrator in accordance with sections 4123.29 and 4123.34 of the Revised Code, and may adjust those rates as recommended by the actuary.	84163 84164 84165 84166 84167
(I) The board shall have an independent auditor, at least once every ten years, conduct a fiduciary performance audit of the investment program of the bureau of workers' compensation. That audit shall include an audit of the investment policies approved by the board and investment procedures of the bureau. The board shall submit a copy of that audit to the auditor of state.	84168 84169 84170 84171 84172 84173
(J) The administrator, with the advice and consent of the board, shall employ an internal auditor who shall report findings directly to the board, workers' compensation audit committee, and administrator, except that the internal auditor shall not report findings directly to the administrator when those findings involve	84174 84175 84176 84177 84178

malfeasance, misfeasance, or nonfeasance on the part of the 84179
administrator. The board and the workers' compensation audit 84180
committee may request and review internal audits conducted by the 84181
internal auditor. 84182

(K) The administrator shall pay the expenses incurred by the 84183
board to effectively fulfill its duties and exercise its powers 84184
under this section as the administrator pays other operating 84185
expenses of the bureau. 84186

Sec. 4121.128. The attorney general shall be the legal 84187
adviser of the bureau of workers' compensation board of directors 84188
~~and the workers' compensation council.~~ 84189

Sec. 4121.44. (A) The administrator of workers' compensation 84190
shall oversee the implementation of the Ohio workers' compensation 84191
qualified health plan system as established under section 4121.442 84192
of the Revised Code. 84193

(B) The administrator shall direct the implementation of the 84194
health partnership program administered by the bureau as set forth 84195
in section 4121.441 of the Revised Code. To implement the health 84196
partnership program, the bureau: 84197

(1) Shall certify one or more external vendors, which shall 84198
be known as "managed care organizations," to provide medical 84199
management and cost containment services in the health partnership 84200
program for a period of two years beginning on the date of 84201
certification, consistent with the standards established under 84202
this section; 84203

(2) May recertify external vendors for additional periods of 84204
two years; and 84205

(3) May integrate the certified vendors with bureau staff and 84206
existing bureau services for purposes of operation and training to 84207
allow the bureau to assume operation of the health partnership 84208

program at the conclusion of the certification periods set forth 84209
in division (B)(1) or (2) of this section. 84210

(C) Any vendor selected shall demonstrate all of the 84211
following: 84212

(1) Arrangements and reimbursement agreements with a 84213
substantial number of the medical, professional and pharmacy 84214
providers currently being utilized by claimants. 84215

(2) Ability to accept a common format of medical bill data in 84216
an electronic fashion from any provider who wishes to submit 84217
medical bill data in that form. 84218

(3) A computer system able to handle the volume of medical 84219
bills and willingness to customize that system to the bureau's 84220
needs and to be operated by the vendor's staff, bureau staff, or 84221
some combination of both staffs. 84222

(4) A prescription drug system where pharmacies on a 84223
statewide basis have access to the eligibility and pricing, at a 84224
discounted rate, of all prescription drugs. 84225

(5) A tracking system to record all telephone calls from 84226
claimants and providers regarding the status of submitted medical 84227
bills so as to be able to track each inquiry. 84228

(6) Data processing capacity to absorb all of the bureau's 84229
medical bill processing or at least that part of the processing 84230
which the bureau arranges to delegate. 84231

(7) Capacity to store, retrieve, array, simulate, and model 84232
in a relational mode all of the detailed medical bill data so that 84233
analysis can be performed in a variety of ways and so that the 84234
bureau and its governing authority can make informed decisions. 84235

(8) Wide variety of software programs which translate medical 84236
terminology into standard codes, and which reveal if a provider is 84237
manipulating the procedures codes, commonly called "unbundling." 84238

(9) Necessary professional staff to conduct, at a minimum, 84239
authorizations for treatment, medical necessity, utilization 84240
review, concurrent review, post-utilization review, and have the 84241
attendant computer system which supports such activity and 84242
measures the outcomes and the savings. 84243

(10) Management experience and flexibility to be able to 84244
react quickly to the needs of the bureau in the case of required 84245
change in federal or state requirements. 84246

(D)(1) Information contained in a vendor's application for 84247
certification in the health partnership program, and other 84248
information furnished to the bureau by a vendor for purposes of 84249
obtaining certification or to comply with performance and 84250
financial auditing requirements established by the administrator, 84251
is for the exclusive use and information of the bureau in the 84252
discharge of its official duties, and shall not be open to the 84253
public or be used in any court in any proceeding pending therein, 84254
unless the bureau is a party to the action or proceeding, but the 84255
information may be tabulated and published by the bureau in 84256
statistical form for the use and information of other state 84257
departments and the public. No employee of the bureau, except as 84258
otherwise authorized by the administrator, shall divulge any 84259
information secured by the employee while in the employ of the 84260
bureau in respect to a vendor's application for certification or 84261
in respect to the business or other trade processes of any vendor 84262
to any person other than the administrator or to the employee's 84263
superior. 84264

(2) Notwithstanding the restrictions imposed by division 84265
(D)(1) of this section, the governor, members of select or 84266
standing committees of the senate or house of representatives, the 84267
auditor of state, the attorney general, or their designees, 84268
pursuant to the authority granted in this chapter and Chapter 84269
4123. of the Revised Code, may examine any vendor application or 84270

other information furnished to the bureau by the vendor. None of 84271
those individuals shall divulge any information secured in the 84272
exercise of that authority in respect to a vendor's application 84273
for certification or in respect to the business or other trade 84274
processes of any vendor to any person. 84275

(E) On and after January 1, 2001, a vendor shall not be any 84276
insurance company holding a certificate of authority issued 84277
pursuant to Title XXXIX of the Revised Code or any health insuring 84278
corporation holding a certificate of authority under Chapter 1751. 84279
of the Revised Code. 84280

(F) The administrator may limit freedom of choice of health 84281
care provider or supplier by requiring, beginning with the period 84282
set forth in division (B)(1) or (2) of this section, that 84283
claimants shall pay an appropriate out-of-plan copayment for 84284
selecting a medical provider not within the health partnership 84285
program as provided for in this section. 84286

(G) The administrator, six months prior to the expiration of 84287
the bureau's certification or recertification of the vendor or 84288
vendors as set forth in division (B)(1) or (2) of this section, 84289
may certify and provide evidence to the governor, the speaker of 84290
the house of representatives, and the president of the senate that 84291
the existing bureau staff is able to match or exceed the 84292
performance and outcomes of the external vendor or vendors and 84293
that the bureau should be permitted to internally administer the 84294
health partnership program upon the expiration of the 84295
certification or recertification as set forth in division (B)(1) 84296
or (2) of this section. 84297

(H) The administrator shall establish and operate a bureau of 84298
workers' compensation health care data program. The administrator 84299
shall develop reporting requirements from all employees, employers 84300
and medical providers, medical vendors, and plans that participate 84301
in the workers' compensation system. The administrator shall do 84302

all of the following: 84303

(1) Utilize the collected data to measure and perform 84304
comparison analyses of costs, quality, appropriateness of medical 84305
care, and effectiveness of medical care delivered by all 84306
components of the workers' compensation system. 84307

(2) Compile data to support activities of the selected vendor 84308
or vendors and to measure the outcomes and savings of the health 84309
partnership program. 84310

(3) Publish and report compiled data on the measures of 84311
outcomes and savings of the health partnership program and submit 84312
the report to the president of the senate, the speaker of the 84313
house of representatives, and the governor, ~~and the workers'~~ 84314
~~compensation council~~ with the annual report prepared under 84315
division (F)(3) of section 4121.12 of the Revised Code. The 84316
administrator shall protect the confidentiality of all proprietary 84317
pricing data. 84318

(I) Any rehabilitation facility the bureau operates is 84319
eligible for inclusion in the Ohio workers' compensation qualified 84320
health plan system or the health partnership program under the 84321
same terms as other providers within health care plans or the 84322
program. 84323

(J) In areas outside the state or within the state where no 84324
qualified health plan or an inadequate number of providers within 84325
the health partnership program exist, the administrator shall 84326
permit employees to use a nonplan or nonprogram health care 84327
provider and shall pay the provider for the services or supplies 84328
provided to or on behalf of an employee for an injury or 84329
occupational disease that is compensable under this chapter or 84330
Chapter 4123., 4127., or 4131. of the Revised Code on a fee 84331
schedule the administrator adopts. 84332

(K) No health care provider, whether certified or not, shall 84333

charge, assess, or otherwise attempt to collect from an employee, 84334
employer, a managed care organization, or the bureau any amount 84335
for covered services or supplies that is in excess of the allowed 84336
amount paid by a managed care organization, the bureau, or a 84337
qualified health plan. 84338

(L) The administrator shall permit any employer or group of 84339
employers who agree to abide by the rules adopted under this 84340
section and sections 4121.441 and 4121.442 of the Revised Code to 84341
provide services or supplies to or on behalf of an employee for an 84342
injury or occupational disease that is compensable under this 84343
chapter or Chapter 4123., 4127., or 4131. of the Revised Code 84344
through qualified health plans of the Ohio workers' compensation 84345
qualified health plan system pursuant to section 4121.442 of the 84346
Revised Code or through the health partnership program pursuant to 84347
section 4121.441 of the Revised Code. No amount paid under the 84348
qualified health plan system pursuant to section 4121.442 of the 84349
Revised Code by an employer who is a state fund employer shall be 84350
charged to the employer's experience or otherwise be used in 84351
merit-rating or determining the risk of that employer for the 84352
purpose of the payment of premiums under this chapter, and if the 84353
employer is a self-insuring employer, the employer shall not 84354
include that amount in the paid compensation the employer reports 84355
under section 4123.35 of the Revised Code. 84356

Sec. 4123.27. Information contained in the annual statement 84357
provided for in section 4123.26 of the Revised Code, and such 84358
other information as may be furnished to the bureau of workers' 84359
compensation by employers in pursuance of that section, is for the 84360
exclusive use and information of the bureau in the discharge of 84361
its official duties, and shall not be open to the public nor be 84362
used in any court in any action or proceeding pending therein 84363
unless the bureau is a party to the action or proceeding; but the 84364
information contained in the statement may be tabulated and 84365

published by the bureau in statistical form for the use and 84366
information of other state departments and the public. No person 84367
in the employ of the bureau, except those who are authorized by 84368
the administrator of workers' compensation, shall divulge any 84369
information secured by the person while in the employ of the 84370
bureau in respect to the transactions, property, claim files, 84371
records, or papers of the bureau or in respect to the business or 84372
mechanical, chemical, or other industrial process of any company, 84373
firm, corporation, person, association, partnership, or public 84374
utility to any person other than the administrator or to the 84375
superior of such employee of the bureau. 84376

Notwithstanding the restrictions imposed by this section, the 84377
governor, select or standing committees of the general assembly, 84378
the auditor of state, the attorney general, or their designees, 84379
pursuant to the authority granted in this chapter and Chapter 84380
4121. of the Revised Code, may examine any records, claim files, 84381
or papers in possession of the industrial commission or the 84382
bureau. They also are bound by the privilege that attaches to 84383
these papers. 84384

The administrator shall report to the director of job and 84385
family services or to the county director of job and family 84386
services the name, address, and social security number or other 84387
identification number of any person receiving workers' 84388
compensation whose name or social security number or other 84389
identification number is the same as that of a person required by 84390
a court or child support enforcement agency to provide support 84391
payments to a recipient or participant of public assistance, as 84392
that term is defined in section 5101.181 of the Revised Code, and 84393
whose name is submitted to the administrator by the director under 84394
section 5101.36 of the Revised Code. The administrator also shall 84395
inform the director of the amount of workers' compensation paid to 84396
the person during such period as the director specifies. 84397

Within fourteen days after receiving from the director of job 84398
and family services a list of the names and social security 84399
numbers of recipients or participants of public assistance 84400
pursuant to section 5101.181 of the Revised Code, the 84401
administrator shall inform the auditor of state of the name, 84402
current or most recent address, and social security number of each 84403
person receiving workers' compensation pursuant to this chapter 84404
whose name and social security number are the same as that of a 84405
person whose name or social security number was submitted by the 84406
director. The administrator also shall inform the auditor of state 84407
of the amount of workers' compensation paid to the person during 84408
such period as the director specifies. 84409

The bureau and its employees, except for purposes of 84410
furnishing the auditor of state with information required by this 84411
section, shall preserve the confidentiality of recipients or 84412
participants of public assistance in compliance with ~~division (A)~~ 84413
~~of~~ section 5101.181 of the Revised Code. 84414

~~For the purposes of this section, "public assistance" means 84415
medical assistance provided through the medical assistance program 84416
established under section 5111.01 of the Revised Code, Ohio works 84417
first provided under Chapter 5107. of the Revised Code, 84418
prevention, retention, and contingency benefits and services 84419
provided under Chapter 5108. of the Revised Code, or disability 84420
financial assistance provided under Chapter 5115. of the Revised 84421
Code. 84422~~

Sec. 4123.341. The administrative costs of the industrial 84423
commission, ~~the workers' compensation council,~~ the bureau of 84424
workers' compensation board of directors, and the bureau of 84425
workers' compensation shall be those costs and expenses that are 84426
incident to the discharge of the duties and performance of the 84427
activities of the industrial commission, ~~the council,~~ the board, 84428

and the bureau under this chapter and Chapters 4121., 4125., 84429
4127., 4131., and 4167. of the Revised Code, and all such costs 84430
shall be borne by the state and by other employers amenable to 84431
this chapter as follows: 84432

(A) In addition to the contribution required of the state 84433
under sections 4123.39 and 4123.40 of the Revised Code, the state 84434
shall contribute the sum determined to be necessary under section 84435
4123.342 of the Revised Code. 84436

(B) The director of budget and management may allocate the 84437
state's share of contributions in the manner the director finds 84438
most equitably apportions the costs. 84439

(C) The counties and taxing districts therein shall 84440
contribute such sum as may be required under section 4123.342 of 84441
the Revised Code. 84442

(D) The private employers shall contribute the sum required 84443
under section 4123.342 of the Revised Code. 84444

Sec. 4123.342. (A) The administrator of workers' compensation 84445
shall allocate among counties and taxing districts therein as a 84446
class, the state and its instrumentalities as a class, private 84447
employers who are insured under the private fund as a class, and 84448
self-insuring employers as a class their fair shares of the 84449
administrative costs which are to be borne by such employers under 84450
division (D) of section 4123.341 of the Revised Code, separately 84451
allocating to each class those costs solely attributable to the 84452
activities of the industrial commission, ~~those costs solely~~ 84453
~~attributable to the activities of the workers' compensation~~ 84454
~~council,~~ and those costs solely attributable to the activities of 84455
the bureau of workers' compensation board of directors, and the 84456
bureau of workers' compensation in respect of the class, 84457
allocating to any combination of classes those costs attributable 84458
to the activities of the industrial commission, ~~council,~~ board, or 84459

bureau in respect of the classes, and allocating to all four 84460
classes those costs attributable to the activities of the 84461
industrial commission, ~~council~~, board, and bureau in respect of 84462
all classes. The administrator shall separately calculate each 84463
employer's assessment in the class, except self-insuring 84464
employers, on the basis of the following three factors: payroll, 84465
paid compensation, and paid medical costs of the employer for 84466
those costs solely attributable to the activities of the board and 84467
the bureau. The administrator shall separately calculate each 84468
employer's assessment in the class, except self-insuring 84469
employers, on the basis of the following three factors: payroll, 84470
paid compensation, and paid medical costs of the employer for 84471
those costs solely attributable to the activities of the 84472
industrial commission. ~~The administrator shall separately~~ 84473
~~calculate each employer's assessment in the class, except~~ 84474
~~self-insuring employers, on the basis of the following three~~ 84475
~~factors: payroll, paid compensation, and paid medical costs of the~~ 84476
~~employer for those costs solely attributable to the activities of~~ 84477
~~the council.~~ The administrator shall separately calculate each 84478
self-insuring employer's assessment in accordance with section 84479
4123.35 of the Revised Code for those costs solely attributable to 84480
the activities of the board and the bureau. The administrator 84481
shall separately calculate each self-insuring employer's 84482
assessment in accordance with section 4123.35 of the Revised Code 84483
for those costs solely attributable to the activities of the 84484
industrial commission. ~~The administrator shall separately~~ 84485
~~calculate each self-insuring employer's assessment in accordance~~ 84486
~~with section 4123.35 of the Revised Code for those costs solely~~ 84487
~~attributable to the activities of the council.~~ In a timely manner, 84488
the industrial commission shall provide to the administrator, the 84489
information necessary for the administrator to allocate and 84490
calculate, with the approval of the chairperson of the industrial 84491
commission, for each class of employer as described in this 84492

division, the costs solely attributable to the activities of the 84493
industrial commission. ~~In a timely manner, the director of the~~ 84494
~~workers' compensation council shall submit to the administrator~~ 84495
~~the information necessary for the administrator to allocate and~~ 84496
~~calculate, with the approval of the director, for each class of~~ 84497
~~employer as described in this division, the costs solely~~ 84498
~~attributable to the activities of the council.~~ 84499

(B) The administrator shall divide the administrative cost 84500
assessments collected by the administrator into ~~three~~ two 84501
administrative assessment accounts within the state insurance 84502
fund. One of the administrative assessment accounts shall consist 84503
of the administrative cost assessment collected by the 84504
administrator for the industrial commission. ~~One of the~~ 84505
~~administrative assessment accounts shall consist of the~~ 84506
~~administrative cost assessment collected by the administrator for~~ 84507
~~the council.~~ One of the administrative assessment accounts shall 84508
consist of the administrative cost assessments collected by the 84509
administrator for the bureau and the board. The administrator may 84510
invest the administrative cost assessments in these accounts on 84511
behalf of the bureau, ~~the council,~~ and the industrial commission 84512
as authorized in section 4123.44 of the Revised Code. In a timely 84513
manner, the administrator shall provide to the industrial 84514
commission ~~and the council~~ the information and reports the 84515
commission ~~or council, as applicable,~~ deems necessary for the 84516
commission ~~or the council, as applicable,~~ to monitor the receipts 84517
and the disbursements from the administrative assessment account 84518
for the industrial commission ~~or the administrative assessment~~ 84519
~~account for the council, as applicable.~~ 84520

(C) The administrator or the administrator's designee shall 84521
transfer moneys as necessary from the administrative assessment 84522
account identified for the bureau and the board to the workers' 84523
compensation fund for the use of the bureau and the board. As 84524

necessary and upon the authorization of the industrial commission, 84525
the administrator or the administrator's designee shall transfer 84526
moneys from the administrative assessment account identified for 84527
the industrial commission to the industrial commission operating 84528
fund created under section 4121.021 of the Revised Code. To the 84529
extent that the moneys collected by the administrator in any 84530
fiscal biennium of the state equal the sum appropriated by the 84531
general assembly for administrative costs of the industrial 84532
commission, board, and bureau for the biennium ~~and the~~ 84533
~~administrative costs approved by the workers' compensation~~ 84534
~~council~~, the moneys shall be paid into the workers' compensation 84535
fund, and the industrial commission operating fund of the state, 84536
~~the workers' compensation council fund, and the workers'~~ 84537
~~compensation council remuneration fund~~, as appropriate, and any 84538
remainder shall be retained in those funds and applied to reduce 84539
the amount collected during the next biennium. 84540

~~(D) As necessary and upon authorization of the director of 84541
the council, the administrator or the administrator's designee 84542
shall transfer moneys from the administrative assessment account 84543
identified for the council to the workers' compensation council 84544
fund created in division (C) of section 4121.79 of the Revised 84545
Code. 84546~~

~~(E)~~ Sections 4123.41, 4123.35, and 4123.37 of the Revised 84547
Code apply to the collection of assessments from public and 84548
private employers respectively, except that for boards of county 84549
hospital trustees that are self-insuring employers, only those 84550
provisions applicable to the collection of assessments for private 84551
employers apply. 84552

Sec. 4123.35. (A) Except as provided in this section, every 84553
employer mentioned in division (B)(2) of section 4123.01 of the 84554
Revised Code, and every publicly owned utility shall pay 84555

semiannually in the months of January and July into the state 84556
insurance fund the amount of annual premium the administrator of 84557
workers' compensation fixes for the employment or occupation of 84558
the employer, the amount of which premium to be paid by each 84559
employer to be determined by the classifications, rules, and rates 84560
made and published by the administrator. The employer shall pay 84561
semiannually a further sum of money into the state insurance fund 84562
as may be ascertained to be due from the employer by applying the 84563
rules of the administrator, and a receipt or certificate 84564
certifying that payment has been made, along with a written notice 84565
as is required in section 4123.54 of the Revised Code, shall be 84566
mailed immediately to the employer by the bureau of workers' 84567
compensation. The receipt or certificate is prima-facie evidence 84568
of the payment of the premium, and the proper posting of the 84569
notice constitutes the employer's compliance with the notice 84570
requirement mandated in section 4123.54 of the Revised Code. 84571

The bureau of workers' compensation shall verify with the 84572
secretary of state the existence of all corporations and 84573
organizations making application for workers' compensation 84574
coverage and shall require every such application to include the 84575
employer's federal identification number. 84576

An employer as defined in division (B)(2) of section 4123.01 84577
of the Revised Code who has contracted with a subcontractor is 84578
liable for the unpaid premium due from any subcontractor with 84579
respect to that part of the payroll of the subcontractor that is 84580
for work performed pursuant to the contract with the employer. 84581

Division (A) of this section providing for the payment of 84582
premiums semiannually does not apply to any employer who was a 84583
subscriber to the state insurance fund prior to January 1, 1914, 84584
or who may first become a subscriber to the fund in any month 84585
other than January or July. Instead, the semiannual premiums shall 84586
be paid by those employers from time to time upon the expiration 84587

of the respective periods for which payments into the fund have 84588
been made by them. 84589

The administrator shall adopt rules to permit employers to 84590
make periodic payments of the semiannual premium due under this 84591
division. The rules shall include provisions for the assessment of 84592
interest charges, where appropriate, and for the assessment of 84593
penalties when an employer fails to make timely premium payments. 84594
An employer who timely pays the amounts due under this division is 84595
entitled to all of the benefits and protections of this chapter. 84596
Upon receipt of payment, the bureau immediately shall mail a 84597
receipt or certificate to the employer certifying that payment has 84598
been made, which receipt is prima-facie evidence of payment. 84599
Workers' compensation coverage under this chapter continues 84600
uninterrupted upon timely receipt of payment under this division. 84601

Every public employer, except public employers that are 84602
self-insuring employers under this section, shall comply with 84603
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 84604
regard to the contribution of moneys to the public insurance fund. 84605

(B) Employers who will abide by the rules of the 84606
administrator and who may be of sufficient financial ability to 84607
render certain the payment of compensation to injured employees or 84608
the dependents of killed employees, and the furnishing of medical, 84609
surgical, nursing, and hospital attention and services and 84610
medicines, and funeral expenses, equal to or greater than is 84611
provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 84612
to 4123.67 of the Revised Code, and who do not desire to insure 84613
the payment thereof or indemnify themselves against loss sustained 84614
by the direct payment thereof, upon a finding of such facts by the 84615
administrator, may be granted the privilege to pay individually 84616
compensation, and furnish medical, surgical, nursing, and hospital 84617
services and attention and funeral expenses directly to injured 84618
employees or the dependents of killed employees, thereby being 84619

granted status as a self-insuring employer. The administrator may 84620
charge employers who apply for the status as a self-insuring 84621
employer a reasonable application fee to cover the bureau's costs 84622
in connection with processing and making a determination with 84623
respect to an application. 84624

All employers granted status as self-insuring employers shall 84625
demonstrate sufficient financial and administrative ability to 84626
assure that all obligations under this section are promptly met. 84627
The administrator shall deny the privilege where the employer is 84628
unable to demonstrate the employer's ability to promptly meet all 84629
the obligations imposed on the employer by this section. 84630

(1) The administrator shall consider, but is not limited to, 84631
the following factors, where applicable, in determining the 84632
employer's ability to meet all of the obligations imposed on the 84633
employer by this section: 84634

(a) The employer employs a minimum of five hundred employees 84635
in this state; 84636

(b) The employer has operated in this state for a minimum of 84637
two years, provided that an employer who has purchased, acquired, 84638
or otherwise succeeded to the operation of a business, or any part 84639
thereof, situated in this state that has operated for at least two 84640
years in this state, also shall qualify; 84641

(c) Where the employer previously contributed to the state 84642
insurance fund or is a successor employer as defined by bureau 84643
rules, the amount of the buyout, as defined by bureau rules; 84644

(d) The sufficiency of the employer's assets located in this 84645
state to insure the employer's solvency in paying compensation 84646
directly; 84647

(e) The financial records, documents, and data, certified by 84648
a certified public accountant, necessary to provide the employer's 84649
full financial disclosure. The records, documents, and data 84650

include, but are not limited to, balance sheets and profit and 84651
loss history for the current year and previous four years. 84652

(f) The employer's organizational plan for the administration 84653
of the workers' compensation law; 84654

(g) The employer's proposed plan to inform employees of the 84655
change from a state fund insurer to a self-insuring employer, the 84656
procedures the employer will follow as a self-insuring employer, 84657
and the employees' rights to compensation and benefits; and 84658

(h) The employer has either an account in a financial 84659
institution in this state, or if the employer maintains an account 84660
with a financial institution outside this state, ensures that 84661
workers' compensation checks are drawn from the same account as 84662
payroll checks or the employer clearly indicates that payment will 84663
be honored by a financial institution in this state. 84664

The administrator may waive the requirements of divisions 84665
(B)(1)(a) and (b) of this section and the requirement of division 84666
(B)(1)(e) of this section that the financial records, documents, 84667
and data be certified by a certified public accountant. The 84668
administrator shall adopt rules establishing the criteria that an 84669
employer shall meet in order for the administrator to waive the 84670
requirement of division (B)(1)(e) of this section. Such rules may 84671
require additional security of that employer pursuant to division 84672
(E) of section 4123.351 of the Revised Code. 84673

The administrator shall not grant the status of self-insuring 84674
employer to the state, except that the administrator may grant the 84675
status of self-insuring employer to a state institution of higher 84676
education, excluding its hospitals, that meets the requirements of 84677
division (B)(2) of this section. 84678

(2) When considering the application of a public employer, 84679
except for a board of county commissioners described in division 84680
(G) of section 4123.01 of the Revised Code, a board of a county 84681

hospital, or a publicly owned utility, the administrator shall 84682
verify that the public employer satisfies all of the following 84683
requirements as the requirements apply to that public employer: 84684

(a) For the two-year period preceding application under this 84685
section, the public employer has maintained an unvoted debt 84686
capacity equal to at least two times the amount of the current 84687
annual premium established by the administrator under this chapter 84688
for that public employer for the year immediately preceding the 84689
year in which the public employer makes application under this 84690
section. 84691

(b) For each of the two fiscal years preceding application 84692
under this section, the unreserved and undesignated year-end fund 84693
balance in the public employer's general fund is equal to at least 84694
five per cent of the public employer's general fund revenues for 84695
the fiscal year computed in accordance with generally accepted 84696
accounting principles. 84697

(c) For the five-year period preceding application under this 84698
section, the public employer, to the extent applicable, has 84699
complied fully with the continuing disclosure requirements 84700
established in rules adopted by the United States securities and 84701
exchange commission under 17 C.F.R. 240.15c 2-12. 84702

(d) For the five-year period preceding application under this 84703
section, the public employer has not had its local government fund 84704
distribution withheld on account of the public employer being 84705
indebted or otherwise obligated to the state. 84706

(e) For the five-year period preceding application under this 84707
section, the public employer has not been under a fiscal watch or 84708
fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 84709
of the Revised Code. 84710

(f) For the public employer's fiscal year preceding 84711
application under this section, the public employer has obtained 84712

an annual financial audit as required under section 117.10 of the Revised Code, which has been released by the auditor of state within seven months after the end of the public employer's fiscal year.

(g) On the date of application, the public employer holds a debt rating of Aa3 or higher according to Moody's investors service, inc., or a comparable rating by an independent rating agency similar to Moody's investors service, inc.

(h) The public employer agrees to generate an annual accumulating book reserve in its financial statements reflecting an actuarially generated reserve adequate to pay projected claims under this chapter for the applicable period of time, as determined by the administrator.

(i) For a public employer that is a hospital, the public employer shall submit audited financial statements showing the hospital's overall liquidity characteristics, and the administrator shall determine, on an individual basis, whether the public employer satisfies liquidity standards equivalent to the liquidity standards of other public employers.

(j) Any additional criteria that the administrator adopts by rule pursuant to division (E) of this section.

The administrator may adopt rules establishing the criteria that a public employer shall satisfy in order for the administrator to waive any of the requirements listed in divisions (B)(2)(a) to (j) of this section. The rules may require additional security from that employer pursuant to division (E) of section 4123.351 of the Revised Code. The administrator shall not waive any of the requirements listed in divisions (B)(2)(a) to (j) of this section for a public employer who does not satisfy the criteria established in the rules the administrator adopts.

(C) A board of county commissioners described in division (G)

of section 4123.01 of the Revised Code, as an employer, that will 84744
abide by the rules of the administrator and that may be of 84745
sufficient financial ability to render certain the payment of 84746
compensation to injured employees or the dependents of killed 84747
employees, and the furnishing of medical, surgical, nursing, and 84748
hospital attention and services and medicines, and funeral 84749
expenses, equal to or greater than is provided for in sections 84750
4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised 84751
Code, and that does not desire to insure the payment thereof or 84752
indemnify itself against loss sustained by the direct payment 84753
thereof, upon a finding of such facts by the administrator, may be 84754
granted the privilege to pay individually compensation, and 84755
furnish medical, surgical, nursing, and hospital services and 84756
attention and funeral expenses directly to injured employees or 84757
the dependents of killed employees, thereby being granted status 84758
as a self-insuring employer. The administrator may charge a board 84759
of county commissioners described in division (G) of section 84760
4123.01 of the Revised Code that applies for the status as a 84761
self-insuring employer a reasonable application fee to cover the 84762
bureau's costs in connection with processing and making a 84763
determination with respect to an application. All employers 84764
granted such status shall demonstrate sufficient financial and 84765
administrative ability to assure that all obligations under this 84766
section are promptly met. The administrator shall deny the 84767
privilege where the employer is unable to demonstrate the 84768
employer's ability to promptly meet all the obligations imposed on 84769
the employer by this section. The administrator shall consider, 84770
but is not limited to, the following factors, where applicable, in 84771
determining the employer's ability to meet all of the obligations 84772
imposed on the board as an employer by this section: 84773

(1) The board as an employer employs a minimum of five 84774
hundred employees in this state; 84775

- (2) The board has operated in this state for a minimum of two years; 84776
84777
- (3) Where the board previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules; 84778
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- (4) The sufficiency of the board's assets located in this state to insure the board's solvency in paying compensation directly; 84781
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- (5) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the board's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years. 84784
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- (6) The board's organizational plan for the administration of the workers' compensation law; 84789
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- (7) The board's proposed plan to inform employees of the proposed self-insurance, the procedures the board will follow as a self-insuring employer, and the employees' rights to compensation and benefits; 84791
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- (8) The board has either an account in a financial institution in this state, or if the board maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the board clearly indicates that payment will be honored by a financial institution in this state; 84795
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84800
- (9) The board shall provide the administrator a surety bond in an amount equal to one hundred twenty-five per cent of the projected losses as determined by the administrator. 84801
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84803
- (D) The administrator shall require a surety bond from all self-insuring employers, issued pursuant to section 4123.351 of 84804
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the Revised Code, that is sufficient to compel, or secure to 84806
injured employees, or to the dependents of employees killed, the 84807
payment of compensation and expenses, which shall in no event be 84808
less than that paid or furnished out of the state insurance fund 84809
in similar cases to injured employees or to dependents of killed 84810
employees whose employers contribute to the fund, except when an 84811
employee of the employer, who has suffered the loss of a hand, 84812
arm, foot, leg, or eye prior to the injury for which compensation 84813
is to be paid, and thereafter suffers the loss of any other of the 84814
members as the result of any injury sustained in the course of and 84815
arising out of the employee's employment, the compensation to be 84816
paid by the self-insuring employer is limited to the disability 84817
suffered in the subsequent injury, additional compensation, if 84818
any, to be paid by the bureau out of the surplus created by 84819
section 4123.34 of the Revised Code. 84820

(E) In addition to the requirements of this section, the 84821
administrator shall make and publish rules governing the manner of 84822
making application and the nature and extent of the proof required 84823
to justify a finding of fact by the administrator as to granting 84824
the status of a self-insuring employer, which rules shall be 84825
general in their application, one of which rules shall provide 84826
that all self-insuring employers shall pay into the state 84827
insurance fund such amounts as are required to be credited to the 84828
surplus fund in division (B) of section 4123.34 of the Revised 84829
Code. The administrator may adopt rules establishing requirements 84830
in addition to the requirements described in division (B)(2) of 84831
this section that a public employer shall meet in order to qualify 84832
for self-insuring status. 84833

Employers shall secure directly from the bureau central 84834
offices application forms upon which the bureau shall stamp a 84835
designating number. Prior to submission of an application, an 84836
employer shall make available to the bureau, and the bureau shall 84837

review, the information described in division (B)(1) of this 84838
section, and public employers shall make available, and the bureau 84839
shall review, the information necessary to verify whether the 84840
public employer meets the requirements listed in division (B)(2) 84841
of this section. An employer shall file the completed application 84842
forms with an application fee, which shall cover the costs of 84843
processing the application, as established by the administrator, 84844
by rule, with the bureau at least ninety days prior to the 84845
effective date of the employer's new status as a self-insuring 84846
employer. The application form is not deemed complete until all 84847
the required information is attached thereto. The bureau shall 84848
only accept applications that contain the required information. 84849

(F) The bureau shall review completed applications within a 84850
reasonable time. If the bureau determines to grant an employer the 84851
status as a self-insuring employer, the bureau shall issue a 84852
statement, containing its findings of fact, that is prepared by 84853
the bureau and signed by the administrator. If the bureau 84854
determines not to grant the status as a self-insuring employer, 84855
the bureau shall notify the employer of the determination and 84856
require the employer to continue to pay its full premium into the 84857
state insurance fund. The administrator also shall adopt rules 84858
establishing a minimum level of performance as a criterion for 84859
granting and maintaining the status as a self-insuring employer 84860
and fixing time limits beyond which failure of the self-insuring 84861
employer to provide for the necessary medical examinations and 84862
evaluations may not delay a decision on a claim. 84863

(G) The administrator shall adopt rules setting forth 84864
procedures for auditing the program of self-insuring employers. 84865
The bureau shall conduct the audit upon a random basis or whenever 84866
the bureau has grounds for believing that a self-insuring employer 84867
is not in full compliance with bureau rules or this chapter. 84868

The administrator shall monitor the programs conducted by 84869

self-insuring employers, to ensure compliance with bureau 84870
requirements and for that purpose, shall develop and issue to 84871
self-insuring employers standardized forms for use by the 84872
self-insuring employer in all aspects of the self-insuring 84873
employers' direct compensation program and for reporting of 84874
information to the bureau. 84875

The bureau shall receive and transmit to the self-insuring 84876
employer all complaints concerning any self-insuring employer. In 84877
the case of a complaint against a self-insuring employer, the 84878
administrator shall handle the complaint through the 84879
self-insurance division of the bureau. The bureau shall maintain a 84880
file by employer of all complaints received that relate to the 84881
employer. The bureau shall evaluate each complaint and take 84882
appropriate action. 84883

The administrator shall adopt as a rule a prohibition against 84884
any self-insuring employer from harassing, dismissing, or 84885
otherwise disciplining any employee making a complaint, which rule 84886
shall provide for a financial penalty to be levied by the 84887
administrator payable by the offending self-insuring employer. 84888

(H) For the purpose of making determinations as to whether to 84889
grant status as a self-insuring employer, the administrator may 84890
subscribe to and pay for a credit reporting service that offers 84891
financial and other business information about individual 84892
employers. The costs in connection with the bureau's subscription 84893
or individual reports from the service about an applicant may be 84894
included in the application fee charged employers under this 84895
section. 84896

(I) The administrator, notwithstanding other provisions of 84897
this chapter, may permit a self-insuring employer to resume 84898
payment of premiums to the state insurance fund with appropriate 84899
credit modifications to the employer's basic premium rate as such 84900
rate is determined pursuant to section 4123.29 of the Revised 84901

Code. 84902

(J) On the first day of July of each year, the administrator 84903
shall calculate separately each self-insuring employer's 84904
assessments for the safety and hygiene fund, administrative costs 84905
pursuant to section 4123.342 of the Revised Code, and for the 84906
portion of the surplus fund under division (B) of section 4123.34 84907
of the Revised Code that is not used for handicapped 84908
reimbursement, on the basis of the paid compensation attributable 84909
to the individual self-insuring employer according to the 84910
following calculation: 84911

(1) The total assessment against all self-insuring employers 84912
as a class for each fund and for the administrative costs for the 84913
year that the assessment is being made, as determined by the 84914
administrator, divided by the total amount of paid compensation 84915
for the previous calendar year attributable to all amenable 84916
self-insuring employers; 84917

(2) Multiply the quotient in division (J)(1) of this section 84918
by the total amount of paid compensation for the previous calendar 84919
year that is attributable to the individual self-insuring employer 84920
for whom the assessment is being determined. Each self-insuring 84921
employer shall pay the assessment that results from this 84922
calculation, unless the assessment resulting from this calculation 84923
falls below a minimum assessment, which minimum assessment the 84924
administrator shall determine on the first day of July of each 84925
year with the advice and consent of the bureau of workers' 84926
compensation board of directors, in which event, the self-insuring 84927
employer shall pay the minimum assessment. 84928

In determining the total amount due for the total assessment 84929
against all self-insuring employers as a class for each fund and 84930
the administrative assessment, the administrator shall reduce 84931
proportionately the total for each fund and assessment by the 84932
amount of money in the self-insurance assessment fund as of the 84933

date of the computation of the assessment. 84934

The administrator shall calculate the assessment for the 84935
portion of the surplus fund under division (B) of section 4123.34 84936
of the Revised Code that is used for handicapped reimbursement in 84937
the same manner as set forth in divisions (J)(1) and (2) of this 84938
section except that the administrator shall calculate the total 84939
assessment for this portion of the surplus fund only on the basis 84940
of those self-insuring employers that retain participation in the 84941
handicapped reimbursement program and the individual self-insuring 84942
employer's proportion of paid compensation shall be calculated 84943
only for those self-insuring employers who retain participation in 84944
the handicapped reimbursement program. The administrator, as the 84945
administrator determines appropriate, may determine the total 84946
assessment for the handicapped portion of the surplus fund in 84947
accordance with sound actuarial principles. 84948

The administrator shall calculate the assessment for the 84949
portion of the surplus fund under division (B) of section 4123.34 84950
of the Revised Code that under division (D) of section 4121.66 of 84951
the Revised Code is used for rehabilitation costs in the same 84952
manner as set forth in divisions (J)(1) and (2) of this section, 84953
except that the administrator shall calculate the total assessment 84954
for this portion of the surplus fund only on the basis of those 84955
self-insuring employers who have not made the election to make 84956
payments directly under division (D) of section 4121.66 of the 84957
Revised Code and an individual self-insuring employer's proportion 84958
of paid compensation only for those self-insuring employers who 84959
have not made that election. 84960

The administrator shall calculate the assessment for the 84961
portion of the surplus fund under division (B) of section 4123.34 84962
of the Revised Code that is used for reimbursement to a 84963
self-insuring employer under division (H) of section 4123.512 of 84964
the Revised Code in the same manner as set forth in divisions 84965

(J)(1) and (2) of this section except that the administrator shall 84966
calculate the total assessment for this portion of the surplus 84967
fund only on the basis of those self-insuring employers that 84968
retain participation in reimbursement to the self-insuring 84969
employer under division (H) of section 4123.512 of the Revised 84970
Code and the individual self-insuring employer's proportion of 84971
paid compensation shall be calculated only for those self-insuring 84972
employers who retain participation in reimbursement to the 84973
self-insuring employer under division (H) of section 4123.512 of 84974
the Revised Code. 84975

An employer who no longer is a self-insuring employer in this 84976
state or who no longer is operating in this state, shall continue 84977
to pay assessments for administrative costs and for the portion of 84978
the surplus fund under division (B) of section 4123.34 of the 84979
Revised Code that is not used for handicapped reimbursement, based 84980
upon paid compensation attributable to claims that occurred while 84981
the employer was a self-insuring employer within this state. 84982

~~(K) The administrator shall deposit any moneys received from 84983
a self-insuring employer for the self-insuring employer's 84984
assessment to pay the costs solely attributable to the workers' 84985
compensation council into the administrative assessment account 84986
described in division (B) of section 4123.342 of the Revised Code 84987
for the administrative cost assessment collected by the 84988
administrator for the council. There is hereby created in the 84989
state treasury the self-insurance assessment fund. All investment 84990
earnings of the fund shall be deposited in the fund. The 84991
administrator shall use the money in the self-insurance assessment 84992
fund only for administrative costs as specified in section 84993
4123.341 of the Revised Code. 84994~~

(L) Every self-insuring employer shall certify, in affidavit 84995
form subject to the penalty for perjury, to the bureau the amount 84996
of the self-insuring employer's paid compensation for the previous 84997

calendar year. In reporting paid compensation paid for the 84998
previous year, a self-insuring employer shall exclude from the 84999
total amount of paid compensation any reimbursement the 85000
self-insuring employer receives in the previous calendar year from 85001
the surplus fund pursuant to section 4123.512 of the Revised Code 85002
for any paid compensation. The self-insuring employer also shall 85003
exclude from the paid compensation reported any amount recovered 85004
under section 4123.931 of the Revised Code and any amount that is 85005
determined not to have been payable to or on behalf of a claimant 85006
in any final administrative or judicial proceeding. The 85007
self-insuring employer shall exclude such amounts from the paid 85008
compensation reported in the reporting period subsequent to the 85009
date the determination is made. The administrator shall adopt 85010
rules, in accordance with Chapter 119. of the Revised Code, that 85011
provide for all of the following: 85012

(1) Establishing the date by which self-insuring employers 85013
must submit such information and the amount of the assessments 85014
provided for in division (J) of this section for employers who 85015
have been granted self-insuring status within the last calendar 85016
year; 85017

(2) If an employer fails to pay the assessment when due, the 85018
administrator may add a late fee penalty of not more than five 85019
hundred dollars to the assessment plus an additional penalty 85020
amount as follows: 85021

(a) For an assessment from sixty-one to ninety days past due, 85022
the prime interest rate, multiplied by the assessment due; 85023

(b) For an assessment from ninety-one to one hundred twenty 85024
days past due, the prime interest rate plus two per cent, 85025
multiplied by the assessment due; 85026

(c) For an assessment from one hundred twenty-one to one 85027
hundred fifty days past due, the prime interest rate plus four per 85028

cent, multiplied by the assessment due; 85029

(d) For an assessment from one hundred fifty-one to one 85030
hundred eighty days past due, the prime interest rate plus six per 85031
cent, multiplied by the assessment due; 85032

(e) For an assessment from one hundred eighty-one to two 85033
hundred ten days past due, the prime interest rate plus eight per 85034
cent, multiplied by the assessment due; 85035

(f) For each additional thirty-day period or portion thereof 85036
that an assessment remains past due after it has remained past due 85037
for more than two hundred ten days, the prime interest rate plus 85038
eight per cent, multiplied by the assessment due. 85039

(3) An employer may appeal a late fee penalty and penalty 85040
assessment to the administrator. 85041

For purposes of division (L)(2) of this section, "prime 85042
interest rate" means the average bank prime rate, and the 85043
administrator shall determine the prime interest rate in the same 85044
manner as a county auditor determines the average bank prime rate 85045
under section 929.02 of the Revised Code. 85046

The administrator shall include any assessment and penalties 85047
that remain unpaid for previous assessment periods in the 85048
calculation and collection of any assessments due under this 85049
division or division (J) of this section. 85050

(M) As used in this section, "paid compensation" means all 85051
amounts paid by a self-insuring employer for living maintenance 85052
benefits, all amounts for compensation paid pursuant to sections 85053
4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 85054
4123.64 of the Revised Code, all amounts paid as wages in lieu of 85055
such compensation, all amounts paid in lieu of such compensation 85056
under a nonoccupational accident and sickness program fully funded 85057
by the self-insuring employer, and all amounts paid by a 85058
self-insuring employer for a violation of a specific safety 85059

standard pursuant to Section 35 of Article II, Ohio Constitution 85060
and section 4121.47 of the Revised Code. 85061

(N) Should any section of this chapter or Chapter 4121. of 85062
the Revised Code providing for self-insuring employers' 85063
assessments based upon compensation paid be declared 85064
unconstitutional by a final decision of any court, then that 85065
section of the Revised Code declared unconstitutional shall revert 85066
back to the section in existence prior to November 3, 1989, 85067
providing for assessments based upon payroll. 85068

(O) The administrator may grant a self-insuring employer the 85069
privilege to self-insure a construction project entered into by 85070
the self-insuring employer that is scheduled for completion within 85071
six years after the date the project begins, and the total cost of 85072
which is estimated to exceed one hundred million dollars or, for 85073
employers described in division (R) of this section, if the 85074
construction project is estimated to exceed twenty-five million 85075
dollars. The administrator may waive such cost and time criteria 85076
and grant a self-insuring employer the privilege to self-insure a 85077
construction project regardless of the time needed to complete the 85078
construction project and provided that the cost of the 85079
construction project is estimated to exceed fifty million dollars. 85080
A self-insuring employer who desires to self-insure a construction 85081
project shall submit to the administrator an application listing 85082
the dates the construction project is scheduled to begin and end, 85083
the estimated cost of the construction project, the contractors 85084
and subcontractors whose employees are to be self-insured by the 85085
self-insuring employer, the provisions of a safety program that is 85086
specifically designed for the construction project, and a 85087
statement as to whether a collective bargaining agreement 85088
governing the rights, duties, and obligations of each of the 85089
parties to the agreement with respect to the construction project 85090
exists between the self-insuring employer and a labor 85091

organization. 85092

A self-insuring employer may apply to self-insure the 85093
employees of either of the following: 85094

(1) All contractors and subcontractors who perform labor or 85095
work or provide materials for the construction project; 85096

(2) All contractors and, at the administrator's discretion, a 85097
substantial number of all the subcontractors who perform labor or 85098
work or provide materials for the construction project. 85099

Upon approval of the application, the administrator shall 85100
mail a certificate granting the privilege to self-insure the 85101
construction project to the self-insuring employer. The 85102
certificate shall contain the name of the self-insuring employer 85103
and the name, address, and telephone number of the self-insuring 85104
employer's representatives who are responsible for administering 85105
workers' compensation claims for the construction project. The 85106
self-insuring employer shall post the certificate in a conspicuous 85107
place at the site of the construction project. 85108

The administrator shall maintain a record of the contractors 85109
and subcontractors whose employees are covered under the 85110
certificate issued to the self-insured employer. A self-insuring 85111
employer immediately shall notify the administrator when any 85112
contractor or subcontractor is added or eliminated from inclusion 85113
under the certificate. 85114

Upon approval of the application, the self-insuring employer 85115
is responsible for the administration and payment of all claims 85116
under this chapter and Chapter 4121. of the Revised Code for the 85117
employees of the contractor and subcontractors covered under the 85118
certificate who receive injuries or are killed in the course of 85119
and arising out of employment on the construction project, or who 85120
contract an occupational disease in the course of employment on 85121
the construction project. For purposes of this chapter and Chapter 85122

4121. of the Revised Code, a claim that is administered and paid 85123
in accordance with this division is considered a claim against the 85124
self-insuring employer listed in the certificate. A contractor or 85125
subcontractor included under the certificate shall report to the 85126
self-insuring employer listed in the certificate, all claims that 85127
arise under this chapter and Chapter 4121. of the Revised Code in 85128
connection with the construction project for which the certificate 85129
is issued. 85130

A self-insuring employer who complies with this division is 85131
entitled to the protections provided under this chapter and 85132
Chapter 4121. of the Revised Code with respect to the employees of 85133
the contractors and subcontractors covered under a certificate 85134
issued under this division for death or injuries that arise out 85135
of, or death, injuries, or occupational diseases that arise in the 85136
course of, those employees' employment on that construction 85137
project, as if the employees were employees of the self-insuring 85138
employer, provided that the self-insuring employer also complies 85139
with this section. No employee of the contractors and 85140
subcontractors covered under a certificate issued under this 85141
division shall be considered the employee of the self-insuring 85142
employer listed in that certificate for any purposes other than 85143
this chapter and Chapter 4121. of the Revised Code. Nothing in 85144
this division gives a self-insuring employer authority to control 85145
the means, manner, or method of employment of the employees of the 85146
contractors and subcontractors covered under a certificate issued 85147
under this division. 85148

The contractors and subcontractors included under a 85149
certificate issued under this division are entitled to the 85150
protections provided under this chapter and Chapter 4121. of the 85151
Revised Code with respect to the contractor's or subcontractor's 85152
employees who are employed on the construction project which is 85153
the subject of the certificate, for death or injuries that arise 85154

out of, or death, injuries, or occupational diseases that arise in 85155
the course of, those employees' employment on that construction 85156
project. 85157

The contractors and subcontractors included under a 85158
certificate issued under this division shall identify in their 85159
payroll records the employees who are considered the employees of 85160
the self-insuring employer listed in that certificate for purposes 85161
of this chapter and Chapter 4121. of the Revised Code, and the 85162
amount that those employees earned for employment on the 85163
construction project that is the subject of that certificate. 85164
Notwithstanding any provision to the contrary under this chapter 85165
and Chapter 4121. of the Revised Code, the administrator shall 85166
exclude the payroll that is reported for employees who are 85167
considered the employees of the self-insuring employer listed in 85168
that certificate, and that the employees earned for employment on 85169
the construction project that is the subject of that certificate, 85170
when determining those contractors' or subcontractors' premiums or 85171
assessments required under this chapter and Chapter 4121. of the 85172
Revised Code. A self-insuring employer issued a certificate under 85173
this division shall include in the amount of paid compensation it 85174
reports pursuant to division (L) of this section, the amount of 85175
paid compensation the self-insuring employer paid pursuant to this 85176
division for the previous calendar year. 85177

Nothing in this division shall be construed as altering the 85178
rights of employees under this chapter and Chapter 4121. of the 85179
Revised Code as those rights existed prior to September 17, 1996. 85180
Nothing in this division shall be construed as altering the rights 85181
devolved under sections 2305.31 and 4123.82 of the Revised Code as 85182
those rights existed prior to September 17, 1996. 85183

As used in this division, "privilege to self-insure a 85184
construction project" means privilege to pay individually 85185
compensation, and to furnish medical, surgical, nursing, and 85186

hospital services and attention and funeral expenses directly to 85187
injured employees or the dependents of killed employees. 85188

(P) A self-insuring employer whose application is granted 85189
under division (O) of this section shall designate a safety 85190
professional to be responsible for the administration and 85191
enforcement of the safety program that is specifically designed 85192
for the construction project that is the subject of the 85193
application. 85194

A self-insuring employer whose application is granted under 85195
division (O) of this section shall employ an ombudsperson for the 85196
construction project that is the subject of the application. The 85197
ombudsperson shall have experience in workers' compensation or the 85198
construction industry, or both. The ombudsperson shall perform all 85199
of the following duties: 85200

(1) Communicate with and provide information to employees who 85201
are injured in the course of, or whose injury arises out of 85202
employment on the construction project, or who contract an 85203
occupational disease in the course of employment on the 85204
construction project; 85205

(2) Investigate the status of a claim upon the request of an 85206
employee to do so; 85207

(3) Provide information to claimants, third party 85208
administrators, employers, and other persons to assist those 85209
persons in protecting their rights under this chapter and Chapter 85210
4121. of the Revised Code. 85211

A self-insuring employer whose application is granted under 85212
division (O) of this section shall post the name of the safety 85213
professional and the ombudsperson and instructions for contacting 85214
the safety professional and the ombudsperson in a conspicuous 85215
place at the site of the construction project. 85216

(Q) The administrator may consider all of the following when 85217

deciding whether to grant a self-insuring employer the privilege	85218
to self-insure a construction project as provided under division	85219
(O) of this section:	85220
(1) Whether the self-insuring employer has an organizational	85221
plan for the administration of the workers' compensation law;	85222
(2) Whether the safety program that is specifically designed	85223
for the construction project provides for the safety of employees	85224
employed on the construction project, is applicable to all	85225
contractors and subcontractors who perform labor or work or	85226
provide materials for the construction project, and has as a	85227
component, a safety training program that complies with standards	85228
adopted pursuant to the "Occupational Safety and Health Act of	85229
1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing	85230
management and employee involvement;	85231
(3) Whether granting the privilege to self-insure the	85232
construction project will reduce the costs of the construction	85233
project;	85234
(4) Whether the self-insuring employer has employed an	85235
ombudsperson as required under division (P) of this section;	85236
(5) Whether the self-insuring employer has sufficient surety	85237
to secure the payment of claims for which the self-insuring	85238
employer would be responsible pursuant to the granting of the	85239
privilege to self-insure a construction project under division (O)	85240
of this section.	85241
(R) As used in divisions (O), (P), and (Q), "self-insuring	85242
employer" includes the following employers, whether or not they	85243
have been granted the status of being a self-insuring employer	85244
under division (B) of this section:	85245
(1) A state institution of higher education;	85246
(2) A school district;	85247

(3) A county school financing district;	85248
(4) An educational service center;	85249
(5) A community school established under Chapter 3314. of the Revised Code;	85250 85251
(6) A municipal power agency as defined in section 3734.058 of the Revised Code.	85252 85253
(S) As used in this section:	85254
(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;	85255 85256
(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code.	85257 85258 85259 85260 85261 85262 85263
Sec. 4131.03. (A) For the relief of persons who are entitled to receive benefits by virtue of the federal act, there is hereby established a coal-workers pneumoconiosis fund, which shall be separate from the funds established and administered pursuant to Chapter 4123. of the Revised Code. The fund shall consist of premiums and other payments thereto by subscribers who elect to subscribe to the fund to insure the payment of benefits required by the federal act.	85264 85265 85266 85267 85268 85269 85270 85271
(B)(1) The coal-workers pneumoconiosis fund shall be in the custody of the treasurer of state. The bureau of workers' compensation shall make disbursements from the fund to those persons entitled to payment therefrom and in the amounts required pursuant to sections 4131.01 to 4131.06 of the Revised Code. All investment earnings of the fund shall be credited to the fund.	85272 85273 85274 85275 85276 85277

(2) The Beginning July 1, 2011, and ending June 30, 2013, the 85278
director of natural resources annually may request the 85279
administrator of workers' compensation to transfer a portion of 85280
the investment earnings credited to the coal-workers 85281
pneumoconiosis fund as provided in this division. If the 85282
administrator receives a request from the director, the 85283
administrator of workers' compensation may, on the first day of 85284
July, or as soon as possible after that date, shall transfer a 85285
portion of from the investment earnings credited to the 85286
coal-workers pneumoconiosis fund an amount not to exceed three 85287
million dollars to the mine safety fund created in section 1561.24 85288
of the Revised Code for the purposes specified in that section and 85289
an amount not to exceed one million five hundred thousand dollars 85290
to the coal mining administration and reclamation reserve fund 85291
created in section 1513.181 of the Revised Code for the purposes 85292
specified in that section. The administrator, with the advice and 85293
consent of the bureau of workers' compensation board of directors, 85294
shall adopt rules governing the transfer in order to ensure the 85295
solvency of the coal-workers pneumoconiosis fund. For that 85296
purpose, the rules may establish tests based on measures of net 85297
assets, liabilities, expenses, interest, dividend income, or other 85298
factors that the administrator determines appropriate that may be 85299
applied prior to a transfer. 85300

(C) The administrator shall have the same powers to invest 85301
any of the surplus or reserve belonging to the coal-workers 85302
pneumoconiosis fund as are delegated to the administrator under 85303
section 4123.44 of the Revised Code with respect to the state 85304
insurance fund. 85305

(D) If the administrator determines that reinsurance of the 85306
risks of the coal-workers pneumoconiosis fund is necessary to 85307
assure solvency of the fund, the administrator may: 85308

(1) Enter into contracts for the purchase of reinsurance 85309

coverage of the risks of the fund with any company or agency 85310
authorized by law to issue contracts of reinsurance; 85311

(2) Pay the cost of reinsurance from the fund; 85312

(3) Include the costs of reinsurance as a liability and 85313
estimated liability of the fund. 85314

Sec. 4141.031. The director of the department of job and 85315
family services shall appoint a migrant agricultural ombudsperson 85316
as provided in section ~~3733.49~~ 3733.43 of the Revised Code. 85317

Sec. 4141.08. (A) There is hereby created an unemployment 85318
compensation advisory council appointed as follows: 85319

(1) Three members who on account of their vocation, 85320
employment, or affiliations can be classed as representative of 85321
employers and three members who on account of their vocation, 85322
employment, or affiliation can be classed as representatives of 85323
employees appointed by the governor with the advice and consent of 85324
the senate. All appointees shall be persons whose training and 85325
experience qualify them to deal with the difficult problems of 85326
unemployment compensation, particularly with respect to the legal, 85327
accounting, actuarial, economic, and social aspects of 85328
unemployment compensation; 85329

(2) The chairpersons of the standing committees of the senate 85330
and the house of representatives to which legislation pertaining 85331
to Chapter 4141. of the Revised Code is customarily referred; 85332

(3) Two members of the senate appointed by the president of 85333
the senate; and 85334

(4) Two members of the house of representatives appointed by 85335
the speaker of the house of representatives. 85336

The speaker and the president shall arrange that of the six 85337
legislative members appointed to the council, not more than three 85338

are members of the same political party. 85339

(B) Members appointed by the governor shall serve for a term 85340
of four years, each term ending on the same day as the date of 85341
their original appointment. Legislative members shall serve during 85342
the session of the general assembly to which they are elected and 85343
for as long as they are members of the general assembly. Vacancies 85344
shall be filled in the same manner as the original appointment but 85345
only for the unexpired part of a term. 85346

(C) Members of the council shall serve without salary but, 85347
notwithstanding section 101.26 of the Revised Code, shall be paid 85348
a meeting stipend of fifty dollars per day each and their actual 85349
and necessary expenses while engaged in the performance of their 85350
duties as members of the council which shall be paid from funds 85351
allocated to pay the expenses of the council pursuant to this 85352
section. 85353

(D) The council shall organize itself and select a 85354
chairperson or co-chairpersons and other officers and committees 85355
as it considers necessary. Seven members constitute a quorum and 85356
the council may act only upon the affirmative vote of seven 85357
members. The council shall meet at least once each calendar 85358
quarter but it may meet more often as the council considers 85359
necessary or at the request of the chairperson. 85360

(E) The council may employ professional and clerical 85361
assistance as it considers necessary and may request of the 85362
director of job and family services assistance as it considers 85363
necessary. The director shall furnish the council with office and 85364
meeting space as requested by the council. 85365

(F) The director shall pay the operating expenses of the 85366
council ~~as determined by the council~~ from moneys in the 85367
unemployment compensation special administrative fund established 85368
in section 4141.11 of the Revised Code. 85369

(G) The council shall have access to only the records of the 85370
department of job and family services that are necessary for the 85371
administration of this chapter and to the reasonable services of 85372
the employees of the department. It may request the director, or 85373
any of the employees appointed by the director, or any employer or 85374
employee subject to this chapter, to appear before it and to 85375
testify relative to the functioning of this chapter and to other 85376
relevant matters. The council may conduct research of its own, 85377
make and publish reports, and recommend to the director, the 85378
unemployment compensation review commission, the governor, or the 85379
general assembly needed changes in this chapter, or in the rules 85380
of the department as it considers necessary. 85381

Sec. 4141.11. There is hereby created in the state treasury 85382
the unemployment compensation special administrative fund. The 85383
fund shall consist of all interest collected on delinquent 85384
contributions pursuant to this chapter, all fines and forfeitures 85385
collected under this chapter, and all court costs and interest 85386
paid or collected in connection with the repayment of fraudulently 85387
obtained benefits pursuant to section 4141.35 of the Revised Code. 85388
All interest earned on the money in the fund shall be retained in 85389
the fund and shall not be credited or transferred to any other 85390
fund or account, except as provided in division (B) of this 85391
section. All moneys which are deposited or paid into this fund may 85392
be used by: 85393

(A) The director of job and family services ~~with the approval~~ 85394
~~of the unemployment compensation advisory council~~ whenever it 85395
appears that such use is necessary for: 85396

(1) The proper administration of this chapter and no federal 85397
funds are available for the specific purpose for which the 85398
expenditure is to be made, provided the moneys are not substituted 85399
for appropriations from federal funds, which in the absence of 85400

such moneys would be available; 85401

(2) The proper administration of this chapter for which 85402
purpose appropriations from federal funds have been requested and 85403
approved but not received, provided the fund would be reimbursed 85404
upon receipt of the federal appropriation; 85405

(3) To the extent possible, the repayment to the unemployment 85406
compensation administration fund of moneys found by the proper 85407
agency of the United States to have been lost or expended for 85408
purposes other than, or an amount in excess of, those found 85409
necessary by the proper agency of the United States for the 85410
administration of this chapter. 85411

(B) The director or the director's deputy whenever it appears 85412
that such use is necessary for the payment of refunds or 85413
adjustments of interest, fines, forfeitures, or court costs 85414
erroneously collected and paid into this fund pursuant to this 85415
chapter. 85416

(C) The director, to pay state disaster unemployment benefits 85417
pursuant to section 4141.292 of the Revised Code. ~~The director~~ 85418
~~need not have prior approval from the council to make these~~ 85419
~~payments.~~ 85420

(D) The director, to pay any costs attributable to the 85421
director that are associated with the sale of real property under 85422
section 4141.131 of the Revised Code. ~~The director need not have~~ 85423
~~prior approval from the council to make these payments.~~ 85424

Whenever the balance in the unemployment compensation special 85425
administrative fund is considered to be excessive by the ~~council~~ 85426
director, the director shall request the director of budget and 85427
management to transfer to the unemployment compensation fund the 85428
amount considered to be excessive. Any balance in the unemployment 85429
compensation special administrative fund shall not lapse at any 85430
time, but shall be continuously available to the director of ~~jobs~~ 85431

job and family services ~~or to the council~~ for expenditures 85432
consistent with this chapter. 85433

Sec. 4141.33. (A) "Seasonal employment" means employment of 85434
individuals hired primarily to perform services in an industry 85435
which because of climatic conditions or because of the seasonal 85436
nature of such industry it is customary to operate only during 85437
regularly recurring periods of forty weeks or less in any 85438
consecutive fifty-two weeks. "Seasonal employer" means an employer 85439
determined by the director of job and family services to be an 85440
employer whose operations and business, with the exception of 85441
certain administrative and maintenance operations, are 85442
substantially all in a seasonal industry. Any employer who claims 85443
to have seasonal employment in a seasonal industry may file with 85444
the director a written application for classification of such 85445
employment as seasonal. Whenever in any industry it is customary 85446
to operate because of climatic conditions or because of the 85447
seasonal nature of such industry only during regularly recurring 85448
periods of forty weeks or less duration, benefits shall be payable 85449
only during the longest seasonal periods which the best practice 85450
of such industry will reasonably permit. The director shall 85451
determine, after investigation, hearing, and due notice, whether 85452
the industry is seasonal and, if seasonal, establish seasonal 85453
periods for such seasonal employer. Until such determination by 85454
the director, no industry or employment shall be deemed seasonal. 85455

(B) When the director has determined such seasonal periods, 85456
the director shall also establish the proportionate number of 85457
weeks of employment and earnings required to qualify for seasonal 85458
benefit rights in place of the weeks of employment and earnings 85459
requirement stipulated in division (R) of section 4141.01 and 85460
section 4141.30 of the Revised Code, and the proportionate number 85461
of weeks for which seasonal benefits may be paid. An individual 85462
whose base period employment consists of only seasonal employment 85463

for a single seasonal employer and who meets the employment and 85464
earnings requirements determined by the director pursuant to this 85465
division will have benefit rights determined in accordance with 85466
this division. Benefit charges for such seasonal employment shall 85467
be computed and charged in accordance with division (D) of section 85468
4141.24 of the Revised Code. The director may adopt rules for 85469
implementation of this section. 85470

(C) ~~An~~ Subject to division (E) of this section, an individual 85471
whose base period employment consists of either seasonal 85472
employment with two or more seasonal employers or both seasonal 85473
employment and nonseasonal employment with employers subject to 85474
this chapter, will have benefit rights determined in accordance 85475
with division (R) of section 4141.01 and section 4141.30 of the 85476
Revised Code. Benefit charges for both seasonal and nonseasonal 85477
employment shall be computed and charged in accordance with 85478
division (D) of section 4141.24 of the Revised Code. The total 85479
seasonal and nonseasonal benefits during a benefit year cannot 85480
exceed twenty-six times the weekly benefit amount. 85481

(D) Benefits shall not be paid to any individual on the basis 85482
of any services, substantially all of which consist of 85483
participating in sports or athletic events or training or 85484
preparing to so participate, for any week which commences during 85485
the period between two successive sport seasons, or similar 85486
periods, if the individual performed services in the first of the 85487
seasons, or similar periods, and there is a reasonable assurance 85488
that the individual will perform services in the later of the 85489
seasons, or similar periods. 85490

~~(1)~~ (E) Effective October 30, 2011, benefits shall not be paid 85491
to any individual on the basis of any services performed in 85492
seasonal employment for any week that commences during the period 85493
between two successive seasonal work periods if the individual 85494
performed services in the first of the seasonal work periods and 85495

there is a reasonable assurance that the individual will perform services in the later of the seasonal work periods. 85496
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(F) The term "reasonable assurance" as used in this ~~division~~ section means a written, verbal, or implied agreement that the individual will perform services in the same or similar capacity during the ensuing sports season or seasonal work period. 85498
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~~(2)~~(G) The director shall adopt rules concerning the eligibility for benefits of individuals under this ~~division~~ section. 85502
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Sec. 4301.01. (A) As used in the Revised Code: 85505

(1) "Intoxicating liquor" and "liquor" include all liquids and compounds, other than beer, containing one-half of one per cent or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether they are medicated, proprietary, or patented. "Intoxicating liquor" and "liquor" include wine even if it contains less than four per cent of alcohol by volume, mixed beverages even if they contain less than four per cent of alcohol by volume, cider, alcohol, and all solids and confections which contain any alcohol. 85506
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(2) Except as used in sections 4301.01 to 4301.20, 4301.22 to 4301.52, 4301.56, 4301.70, 4301.72, and 4303.01 to 4303.36 of the Revised Code, "sale" and "sell" include exchange, barter, gift, offer for sale, sale, distribution and delivery of any kind, and the transfer of title or possession of beer and intoxicating liquor either by constructive or actual delivery by any means or devices whatever, including the sale of beer or intoxicating liquor by means of a controlled access alcohol and beverage cabinet pursuant to section 4301.21 of the Revised Code. "Sale" and "sell" do not include the mere solicitation of orders for beer or intoxicating liquor from the holders of permits issued by the 85516
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division of liquor control authorizing the sale of the beer or 85527
intoxicating liquor, but no solicitor shall solicit any such 85528
orders until the solicitor has been registered with the division 85529
pursuant to section 4303.25 of the Revised Code. 85530

(3) "Vehicle" includes all means of transportation by land, 85531
by water, or by air, and everything made use of in any way for 85532
such transportation. 85533

(B) As used in this chapter: 85534

(1) "Alcohol" means ethyl alcohol, whether rectified or 85535
diluted with water or not, whatever its origin may be, and 85536
includes synthetic ethyl alcohol. "Alcohol" does not include 85537
denatured alcohol and wood alcohol. 85538

(2) "Beer" includes all beverages brewed or fermented wholly 85539
or in part from malt products and containing one-half of one per 85540
cent or more, but not more than ~~twelve~~ eighteen per cent, of 85541
alcohol by volume. 85542

(3) "Wine" includes all liquids fit to use for beverage 85543
purposes containing not less than one-half of one per cent of 85544
alcohol by volume and not more than twenty-one per cent of alcohol 85545
by volume, which is made from the fermented juices of grapes, 85546
fruits, or other agricultural products, except that as used in 85547
sections 4301.13, 4301.421, 4301.422, 4301.432, and 4301.44 of the 85548
Revised Code, and, for purposes of determining the rate of the tax 85549
that applies, division (B) of section 4301.43 of the Revised Code, 85550
"wine" does not include cider. 85551

(4) "Mixed beverages," such as bottled and prepared cordials, 85552
cocktails, and highballs, are products obtained by mixing any type 85553
of whiskey, neutral spirits, brandy, gin, or other distilled 85554
spirits with, or over, carbonated or plain water, pure juices from 85555
flowers and plants, and other flavoring materials. The completed 85556
product shall contain not less than one-half of one per cent of 85557

alcohol by volume and not more than twenty-one per cent of alcohol 85558
by volume. 85559

(5) "Spirituous liquor" includes all intoxicating liquors 85560
containing more than twenty-one per cent of alcohol by volume. 85561

(6) "Sealed container" means any container having a capacity 85562
of not more than one hundred twenty-eight fluid ounces, the 85563
opening of which is closed to prevent the entrance of air. 85564

(7) "Person" includes firms and corporations. 85565

(8) "Manufacture" includes all processes by which beer or 85566
intoxicating liquor is produced, whether by distillation, 85567
rectifying, fortifying, blending, fermentation, or brewing, or in 85568
any other manner. 85569

(9) "Manufacturer" means any person engaged in the business 85570
of manufacturing beer or intoxicating liquor. 85571

(10) "Wholesale distributor" and "distributor" means a person 85572
engaged in the business of selling to retail dealers for purposes 85573
of resale. 85574

(11) "Hotel" has the same meaning as in section 3731.01 of 85575
the Revised Code, subject to the exceptions mentioned in section 85576
3731.03 of the Revised Code. 85577

(12) "Restaurant" means a place located in a permanent 85578
building provided with space and accommodations wherein, in 85579
consideration of the payment of money, hot meals are habitually 85580
prepared, sold, and served at noon and evening, as the principal 85581
business of the place. "Restaurant" does not include pharmacies, 85582
confectionery stores, lunch stands, night clubs, and filling 85583
stations. 85584

(13) "Club" means a corporation or association of individuals 85585
organized in good faith for social, recreational, benevolent, 85586
charitable, fraternal, political, patriotic, or athletic purposes, 85587

which is the owner, lessor, or occupant of a permanent building or 85588
part of a permanent building operated solely for those purposes, 85589
membership in which entails the prepayment of regular dues, and 85590
includes the place so operated. 85591

(14) "Night club" means a place operated for profit, where 85592
food is served for consumption on the premises and one or more 85593
forms of amusement are provided or permitted for a consideration 85594
that may be in the form of a cover charge or may be included in 85595
the price of the food and beverages, or both, purchased by 85596
patrons. 85597

(15) "At retail" means for use or consumption by the 85598
purchaser and not for resale. 85599

(16) "Pharmacy" means an establishment, as defined in section 85600
4729.01 of the Revised Code, that is under the management or 85601
control of a licensed pharmacist in accordance with section 85602
4729.27 of the Revised Code. 85603

(17) "Enclosed shopping center" means a group of retail sales 85604
and service business establishments that face into an enclosed 85605
mall, share common ingress, egress, and parking facilities, and 85606
are situated on a tract of land that contains an area of not less 85607
than five hundred thousand square feet. "Enclosed shopping center" 85608
also includes not more than one business establishment that is 85609
located within a free-standing building on such a tract of land, 85610
so long as the sale of beer and intoxicating liquor on the tract 85611
of land was approved in an election held under former section 85612
4301.353 of the Revised Code. 85613

(18) "Controlled access alcohol and beverage cabinet" means a 85614
closed container, either refrigerated, in whole or in part, or 85615
nonrefrigerated, access to the interior of which is restricted by 85616
means of a device that requires the use of a key, magnetic card, 85617
or similar device and from which beer, intoxicating liquor, other 85618

beverages, or food may be sold. 85619

(19) "Community facility" means either of the following: 85620

(a) Any convention, sports, or entertainment facility or 85621
complex, or any combination of these, that is used by or 85622
accessible to the general public and that is owned or operated in 85623
whole or in part by the state, a state agency, or a political 85624
subdivision of the state or that is leased from, or located on 85625
property owned by or leased from, the state, a state agency, a 85626
political subdivision of the state, or a convention facilities 85627
authority created pursuant to section 351.02 of the Revised Code; 85628

(b) An area designated as a community entertainment district 85629
pursuant to section 4301.80 of the Revised Code. 85630

(20) "Low-alcohol beverage" means any brewed or fermented 85631
malt product, or any product made from the fermented juices of 85632
grapes, fruits, or other agricultural products, that contains 85633
either no alcohol or less than one-half of one per cent of alcohol 85634
by volume. The beverages described in division (B)(20) of this 85635
section do not include a soft drink such as root beer, birch beer, 85636
or ginger beer. 85637

(21) "Cider" means all liquids fit to use for beverage 85638
purposes that contain one-half of one per cent of alcohol by 85639
volume, but not more than six per cent of alcohol by weight, and 85640
that are made through the normal alcoholic fermentation of the 85641
juice of sound, ripe apples, including, without limitation, 85642
flavored, sparkling, or carbonated cider and cider made from pure 85643
condensed apple must. 85644

(22) "Sales area or territory" means an exclusive geographic 85645
area or territory that is assigned to a particular A or B permit 85646
holder and that either has one or more political subdivisions as 85647
its boundaries or consists of an area of land with readily 85648
identifiable geographic boundaries. "Sales area or territory" does 85649

not include, however, any particular retail location in an 85650
exclusive geographic area or territory that had been assigned to 85651
another A or B permit holder before April 9, 2001. 85652

Sec. 4301.12. The division of liquor control shall provide 85653
for the custody, safekeeping, and deposit of all moneys, checks, 85654
and drafts received by it or any of its employees or agents prior 85655
to paying them to the treasurer of state as provided by section 85656
113.08 of the Revised Code. 85657

A sum equal to three dollars and thirty-eight cents for each 85658
gallon of spirituous liquor sold by the division, JobsOhio, or a 85659
designee of JobsOhio during the period covered by the payment 85660
shall be paid into the state treasury to the credit of the general 85661
revenue fund. All moneys received from permit fees, except B-2a 85662
and S permit fees from B-2a and S permit holders who do not also 85663
hold A-2 permits, shall be paid to the credit of the undivided 85664
liquor permit fund established by section 4301.30 of the Revised 85665
Code. 85666

Except as otherwise provided by law, all moneys collected 85667
under Chapters 4301. and 4303. of the Revised Code shall be paid 85668
by the division into the state treasury to the credit of the 85669
liquor control fund, which is hereby created. In addition, revenue 85670
resulting from any contracts with the department of commerce 85671
pertaining to the responsibilities and operations described in 85672
this chapter may be credited to the fund. Amounts in the liquor 85673
control fund may be used to pay the operating expenses of the 85674
liquor control commission. 85675

Whenever, in the judgment of the director of budget and 85676
management, the amount in the liquor control fund is in excess of 85677
that needed to meet the maturing obligations of the division, as 85678
working capital for its further operations, to pay the operating 85679
expenses of the commission, and for the alcohol testing program 85680

under section 3701.143 of the Revised Code, the director shall 85681
transfer the excess to the credit of the general revenue fund. If 85682
the director determines that the amount in the liquor control fund 85683
is insufficient, the director may transfer money from the general 85684
revenue fund to the liquor control fund. 85685

Sec. 4301.17. (A)(1) Subject to local option as provided in 85686
sections 4301.32 to 4301.40 of the Revised Code, five state liquor 85687
stores or agencies may be established in each county. One 85688
additional store may be established in any county for each twenty 85689
thousand of population of that county or major fraction thereof in 85690
excess of the first forty thousand, according to the last 85691
preceding federal decennial census or according to the population 85692
estimates certified by the department of development between 85693
decennial censuses. A person engaged in a mercantile business may 85694
act as the agent for the division of liquor control for the sale 85695
of spirituous liquor in a municipal corporation, in the 85696
unincorporated area of a township, or in an area designated and 85697
approved as a resort area under section 4303.262 of the Revised 85698
Code. The division shall fix the compensation for such an agent in 85699
the manner it considers best, but the compensation shall not 85700
exceed seven per cent of the gross sales made by the agent in any 85701
one year. 85702

(2) The division shall adopt rules in accordance with Chapter 85703
119. of the Revised Code governing the allocation and equitable 85704
distribution of agency store contracts. The division shall comply 85705
with the rules when awarding a contract under division (A)(1) of 85706
this section. 85707

(3) Except as otherwise provided in this section, no 85708
mercantile business that sells beer or intoxicating liquor for 85709
consumption on the premises under a permit issued by the division 85710
shall operate an agency store at the premises. An agency to which 85711

a D-1 permit has been issued may offer for sale tasting samples of 85712
beer, an agency to which a D-2 permit has been issued may offer 85713
for sale tasting samples of wine and mixed beverages, and an 85714
agency to which a D-5 permit has been issued may offer for sale 85715
tasting samples of beer, wine, ~~and~~ mixed beverages, ~~but not~~ and 85716
spirituous liquor. An agency store may offer for sale tasting 85717
samples of spirituous liquor in accordance with rules adopted by 85718
the division. A tasting sample shall not be sold for the purpose 85719
of general consumption. As used in this section, "tasting sample" 85720
means either of the following: 85721

(a) In the case of beer, wine, and mixed beverages, a small 85722
amount of beer, wine, or mixed beverages that is provided in not 85723
more than four servings of not more than two ounces each to an 85724
authorized purchaser and that allows the purchaser to determine, 85725
by tasting only, the quality and character of the beverage;*i* 85726

(b) In the case of spirituous liquor, a small amount of 85727
spirituous liquor that is provided in not more than four servings 85728
of not more than a quarter ounce of spirituous liquor and one 85729
ounce of nonalcoholic mixer each to an authorized purchaser and 85730
that allows the purchaser to determine, by tasting only, the 85731
quality and character of the beverage. 85732

(B) When an agency contract is proposed, when an existing 85733
agency contract is assigned, when an existing agency proposes to 85734
relocate, or when an existing agency is relocated and assigned, 85735
before entering into any contract, consenting to any assignment, 85736
or consenting to any relocation, the division shall notify the 85737
legislative authority of the municipal corporation in which the 85738
agency store is to be located, or the board of county 85739
commissioners and the board of township trustees of the county and 85740
the township in which the agency store is to be located if the 85741
agency store is to be located outside the corporate limits of a 85742
municipal corporation, of the proposed contract, assignment, or 85743

relocation, and an opportunity shall be provided officials or 85744
employees of the municipal corporation or county and township for 85745
a complete hearing upon the advisability of entering into the 85746
contract or consenting to the assignment or relocation. When the 85747
division sends notice to the legislative authority of the 85748
political subdivision, the division shall notify, by certified 85749
mail or by personal service, the chief peace officer of the 85750
political subdivision, who may appear and testify, either in 85751
person or through a representative, at any hearing held on the 85752
advisability of entering into the contract or consenting to the 85753
assignment or relocation. 85754

If the proposed agency store, the assignment of an agency 85755
contract, or the relocation of an agency store would be located 85756
within five hundred feet of a school, church, library, public 85757
playground, or township park, the division shall not enter into an 85758
agency contract until it has provided notice of the proposed 85759
contract to the authorities in control of the school, church, 85760
library, public playground, or township park and has provided 85761
those authorities with an opportunity for a complete hearing upon 85762
the advisability of entering into the contract. If an agency store 85763
so located is operating under an agency contract, the division may 85764
consent to relocation of the agency store or to the assignment of 85765
that contract to operate an agency store at the same location. The 85766
division may also consent to the assignment of an existing agency 85767
contract simultaneously with the relocation of the agency store. 85768
In any such assignment or relocation, the assignee and the 85769
location shall be subject to the same requirements that the 85770
existing location met at the time that the contract was first 85771
entered into as well as any additional requirements imposed by the 85772
division in rules adopted by the superintendent of liquor control. 85773
The division shall not consent to an assignment or relocation of 85774
an agency store until it has notified the authorities in control 85775
of the school, church, library, public playground, or township 85776

park and has provided those authorities with an opportunity for a 85777
complete hearing upon the advisability of consenting to the 85778
assignment or relocation. 85779

Any hearing provided for in this division shall be held in 85780
the central office of the division, except that upon written 85781
request of the legislative authority of the municipal corporation, 85782
the board of county commissioners, the board of township trustees, 85783
or the authorities in control of the school, church, library, 85784
public playground, or township park, the hearing shall be held in 85785
the county seat of the county where the proposed agency store is 85786
to be located. 85787

(C) All agency contracts entered into by the division 85788
pursuant to this section shall be in writing and shall contain a 85789
clause providing for the termination of the contract at will by 85790
the division upon its giving ninety days' notice in writing to the 85791
agent of its intention to do so. Any agency contract may include a 85792
clause requiring the agent to report to the appropriate law 85793
enforcement agency the name and address of any individual under 85794
twenty-one years of age who attempts to make an illegal purchase. 85795

An agent may engage in the selling of beer, mixed beverages, 85796
and wine pursuant to permits issued to the agent under Chapter 85797
4303. of the Revised Code. 85798

The division shall issue a C-1 and C-2 permit to each agent 85799
who prior to November 1, 1994, had not been issued both of these 85800
permits, notwithstanding the population quota restrictions 85801
contained in section 4303.29 of the Revised Code or in any rule of 85802
the liquor control commission and notwithstanding the requirements 85803
of section 4303.31 of the Revised Code. The location of a C-1 or 85804
C-2 permit issued to such an agent shall not be transferred. The 85805
division shall revoke any C-1 or C-2 permit issued to an agent 85806
under this paragraph if the agent no longer operates an agency 85807
store. 85808

The division may enter into agreements with the department of 85809
development to implement a minority loan program to provide 85810
low-interest loans to minority business enterprises, as defined in 85811
section 122.71 of the Revised Code, that are awarded liquor agency 85812
contracts or assignments. 85813

(D) If the division closes a state liquor store and replaces 85814
that store with an agency store, any employees of the division 85815
employed at that state liquor store who lose their jobs at that 85816
store as a result shall be given preference by the agent who 85817
operates the agency store in filling any vacancies that occur 85818
among the agent's employees, if that preference does not conflict 85819
with the agent's obligations pursuant to a collective bargaining 85820
agreement. 85821

If the division closes a state liquor store and replaces the 85822
store with an agency store, any employees of the division employed 85823
at the state liquor store who lose their jobs at that store as a 85824
result may displace other employees as provided in sections 85825
124.321 to 124.328 of the Revised Code. If an employee cannot 85826
displace other employees and is laid off, the employee shall be 85827
reinstated in another job as provided in sections 124.321 to 85828
124.328 of the Revised Code, except that the employee's rights of 85829
reinstatement in a job at a state liquor store shall continue for 85830
a period of two years after the date of the employee's layoff and 85831
shall apply to jobs at state liquor stores located in the 85832
employee's layoff jurisdiction and any layoff jurisdiction 85833
adjacent to the employee's layoff jurisdiction. 85834

(E) The division shall require every agent to give bond with 85835
surety to the satisfaction of the division, in the amount the 85836
division fixes, conditioned for the faithful performance of the 85837
agent's duties as prescribed by the division. 85838

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of 85839

the Revised Code: 85840

(1) "Gallon" or "wine gallon" means one hundred twenty-eight 85841
fluid ounces. 85842

(2) "Sale" or "sell" includes exchange, barter, gift, 85843
distribution, and, except with respect to A-4 permit holders, 85844
offer for sale. 85845

(B) For the purposes of providing revenues for the support of 85846
the state and encouraging the grape industries in the state, a tax 85847
is hereby levied on the sale or distribution of wine in Ohio, 85848
except for known sacramental purposes, at the rate of thirty cents 85849
per wine gallon for wine containing not less than four per cent of 85850
alcohol by volume and not more than fourteen per cent of alcohol 85851
by volume, ninety-eight cents per wine gallon for wine containing 85852
more than fourteen per cent but not more than twenty-one per cent 85853
of alcohol by volume, one dollar and eight cents per wine gallon 85854
for vermouth, and one dollar and forty-eight cents per wine gallon 85855
for sparkling and carbonated wine and champagne, the tax to be 85856
paid by the holders of A-2 and B-5 permits or by any other person 85857
selling or distributing wine upon which no tax has been paid. From 85858
the tax paid under this section on wine, vermouth, and sparkling 85859
and carbonated wine and champagne, the treasurer of state shall 85860
credit to the Ohio grape industries fund created under section 85861
924.54 of the Revised Code a sum equal to one cent per gallon for 85862
each gallon upon which the tax is paid. 85863

(C) For the purpose of providing revenues for the support of 85864
the state, there is hereby levied a tax on prepared and bottled 85865
highballs, cocktails, cordials, and other mixed beverages at the 85866
rate of one dollar and twenty cents per wine gallon to be paid by 85867
holders of A-4 permits or by any other person selling or 85868
distributing those products upon which no tax has been paid. Only 85869
one sale of the same article shall be used in computing the amount 85870
of tax due. The tax on mixed beverages to be paid by holders of 85871

A-4 permits under this section shall not attach until the 85872
ownership of the mixed beverage is transferred for valuable 85873
consideration to a wholesaler or retailer, and no payment of the 85874
tax shall be required prior to that time. 85875

(D) During the period of July 1, ~~2009~~ 2011, through June 30, 85876
~~2011~~ 2013, from the tax paid under this section on wine, vermouth, 85877
and sparkling and carbonated wine and champagne, the treasurer of 85878
state shall credit to the Ohio grape industries fund created under 85879
section 924.54 of the Revised Code a sum equal to two cents per 85880
gallon upon which the tax is paid. The amount credited under this 85881
division is in addition to the amount credited to the Ohio grape 85882
industries fund under division (B) of this section. 85883

(E) For the purpose of providing revenues for the support of 85884
the state, there is hereby levied a tax on cider at the rate of 85885
twenty-four cents per wine gallon to be paid by the holders of A-2 85886
and B-5 permits or by any other person selling or distributing 85887
cider upon which no tax has been paid. Only one sale of the same 85888
article shall be used in computing the amount of the tax due. 85889

Sec. 4301.62. (A) As used in this section: 85890

(1) "Chauffeured limousine" means a vehicle registered under 85891
section 4503.24 of the Revised Code. 85892

(2) "Street," "highway," and "motor vehicle" have the same 85893
meanings as in section 4511.01 of the Revised Code. 85894

(B) No person shall have in the person's possession an opened 85895
container of beer or intoxicating liquor in any of the following 85896
circumstances: 85897

(1) ~~In a state liquor~~ Except as provided in division (C) of 85898
this section, in an agency store; 85899

(2) Except as provided in division (C) of this section, on 85900
the premises of the holder of any permit issued by the division of 85901

liquor control; 85902

(3) In any other public place; 85903

(4) Except as provided in division (D) or (E) of this 85904
section, while operating or being a passenger in or on a motor 85905
vehicle on any street, highway, or other public or private 85906
property open to the public for purposes of vehicular travel or 85907
parking; 85908

(5) Except as provided in division (D) or (E) of this 85909
section, while being in or on a stationary motor vehicle on any 85910
street, highway, or other public or private property open to the 85911
public for purposes of vehicular travel or parking. 85912

(C)(1) A person may have in the person's possession an opened 85913
container of any of the following: 85914

(a) Beer or intoxicating liquor that has been lawfully 85915
purchased for consumption on the premises where bought from the 85916
holder of an A-1-A, A-2, A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, 85917
D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, 85918
D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-7, or 85919
F-8 permit; 85920

(b) Beer, wine, or mixed beverages served for consumption on 85921
the premises by the holder of an F-3 permit or wine served for 85922
consumption on the premises by the holder of an F-4 or F-6 permit; 85923

(c) Beer or intoxicating liquor consumed on the premises of a 85924
convention facility as provided in section 4303.201 of the Revised 85925
Code; 85926

(d) Beer or intoxicating liquor to be consumed during 85927
tastings and samplings approved by rule of the liquor control 85928
commission; 85929

(e) A tasting sample of spirituous liquor, as defined in 85930
section 4301.17 of the Revised Code, to be consumed in an agency 85931

store. 85932

(2) A person may have in the person's possession on an F 85933
liquor permit premises an opened container of beer or intoxicating 85934
liquor that was not purchased from the holder of the F permit if 85935
the premises for which the F permit is issued is a music festival 85936
and the holder of the F permit grants permission for that 85937
possession on the premises during the period for which the F 85938
permit is issued. As used in this division, "music festival" means 85939
a series of outdoor live musical performances, extending for a 85940
period of at least three consecutive days and located on an area 85941
of land of at least forty acres. 85942

(3)(a) A person may have in the person's possession on a D-2 85943
liquor permit premises an opened or unopened container of wine 85944
that was not purchased from the holder of the D-2 permit if the 85945
premises for which the D-2 permit is issued is an outdoor 85946
performing arts center, the person is attending an orchestral 85947
performance, and the holder of the D-2 permit grants permission 85948
for the possession and consumption of wine in certain 85949
predesignated areas of the premises during the period for which 85950
the D-2 permit is issued. 85951

(b) As used in division (C)(3)(a) of this section: 85952

(i) "Orchestral performance" means a concert comprised of a 85953
group of not fewer than forty musicians playing various musical 85954
instruments. 85955

(ii) "Outdoor performing arts center" means an outdoor 85956
performing arts center that is located on not less than one 85957
hundred fifty acres of land and that is open for performances from 85958
the first day of April to the last day of October of each year. 85959

(4) A person may have in the person's possession an opened or 85960
unopened container of beer or intoxicating liquor at an outdoor 85961
location at which the person is attending an orchestral 85962

performance as defined in division (C)(3)(b)(i) of this section if 85963
the person with supervision and control over the performance 85964
grants permission for the possession and consumption of beer or 85965
intoxicating liquor in certain predesignated areas of that outdoor 85966
location. 85967

(5) A person may have in the person's possession on an F-9 85968
liquor permit premises an opened or unopened container of beer or 85969
intoxicating liquor that was not purchased from the holder of the 85970
F-9 permit if the person is attending an orchestral performance 85971
and the holder of the F-9 permit grants permission for the 85972
possession and consumption of beer or intoxicating liquor in 85973
certain predesignated areas of the premises during the period for 85974
which the F-9 permit is issued. 85975

As used in division (C)(5) of this section, "orchestral 85976
performance" has the same meaning as in division (C)(3)(b) of this 85977
section. 85978

(D) This section does not apply to a person who pays all or a 85979
portion of the fee imposed for the use of a chauffeured limousine 85980
pursuant to a prearranged contract, or the guest of the person, 85981
when all of the following apply: 85982

(1) The person or guest is a passenger in the limousine. 85983

(2) The person or guest is located in the limousine, but is 85984
not occupying a seat in the front compartment of the limousine 85985
where the operator of the limousine is located. 85986

(3) The limousine is located on any street, highway, or other 85987
public or private property open to the public for purposes of 85988
vehicular travel or parking. 85989

(E) An opened bottle of wine that was purchased from the 85990
holder of a permit that authorizes the sale of wine for 85991
consumption on the premises where sold is not an opened container 85992
for the purposes of this section if both of the following apply: 85993

(1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.

(2) The opened bottle of wine that is resealed in accordance with division (E)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver.

Sec. 4301.80. (A) As used in this section, "community entertainment district" means a bounded area that includes or will include a combination of entertainment, retail, educational, sporting, social, cultural, or arts establishments within close proximity to some or all of the following types of establishments within the district, or other types of establishments similar to these:

- (1) Hotels;
- (2) Restaurants;
- (3) Retail sales establishments;
- (4) Enclosed shopping centers;
- (5) Museums;
- (6) Performing arts theaters;
- (7) Motion picture theaters;
- (8) Night clubs;
- (9) Convention facilities;
- (10) Sports facilities;

(11) Entertainment facilities or complexes;	86022
(12) Any combination of the establishments described in division (A)(1) to (11) of this section that provide similar services to the community.	86023 86024 86025
(B) Any owner of property located in a municipal corporation seeking to have that property, or that property and other surrounding property, designated as a community entertainment district shall file an application seeking this designation with the mayor of the municipal corporation in which that property is located. Any owner of property located in the unincorporated area of a township seeking to have that property, or that property and other surrounding property, designated as a community entertainment district shall file an application seeking this designation with the board of township trustees of the township in whose unincorporated area that property is located. An application to designate an area as a community entertainment district shall contain all of the following:	86026 86027 86028 86029 86030 86031 86032 86033 86034 86035 86036 86037 86038
(1) The applicant's name and address;	86039
(2) A map or survey of the proposed community entertainment district in sufficient detail to identify the boundaries of the district and the property owned by the applicant;	86040 86041 86042
(3) A general statement of the nature and types of establishments described in division (A) of this section that are or will be located within the proposed community improvement district and any other establishments located in the proposed community entertainment district that are not described in division (A) of this section;	86043 86044 86045 86046 86047 86048
(4) If some or all of the establishments within the proposed community entertainment district have not yet been developed, the proposed time frame for completing the development of these establishments;	86049 86050 86051 86052

(5) Evidence that the uses of land within the proposed 86053
community entertainment district are in accord with the municipal 86054
corporation's or township's master zoning plan or map; 86055

(6) A certificate from a surveyor or engineer licensed under 86056
Chapter 4733. of the Revised Code indicating that the area 86057
encompassed by the proposed community entertainment district 86058
contains no less than twenty contiguous acres; 86059

(7) A handling and processing fee to accompany the 86060
application, payable to the applicable municipal corporation or 86061
township, in an amount determined by that municipal corporation or 86062
township. 86063

(C) An application described in division (B) of this section 86064
relating to an area located in a municipal corporation shall be 86065
addressed and submitted to the mayor of the municipal corporation 86066
in which the area described in the application is located. The 86067
mayor, within thirty days after receiving the application, shall 86068
submit the application with the mayor's recommendation to the 86069
legislative authority of the municipal corporation. An application 86070
described in division (B) of this section relating to an area 86071
located in the unincorporated area of a township shall be 86072
addressed and submitted to the board of township trustees of the 86073
township in whose unincorporated area the area described in the 86074
application is located. The application is a public record for 86075
purposes of section 149.43 of the Revised Code upon its receipt by 86076
the mayor or board of township trustees. 86077

Within thirty days after it receives the application and the 86078
mayor's recommendations relating to the application, the 86079
legislative authority of the municipal corporation, by notice 86080
published once a week for two consecutive weeks in ~~at least~~ one 86081
newspaper of general circulation in the municipal corporation or 86082
as provided in section 7.16 of the Revised Code, shall notify the 86083
public that the application is on file in the office of the clerk 86084

of the municipal corporation and is available for inspection by 86085
the public during regular business hours. Within thirty days after 86086
it receives the application, the board of township trustees, by 86087
notice published once a week for two consecutive weeks in ~~at least~~ 86088
one newspaper of general circulation in the township or as 86089
provided in section 7.16 of the Revised Code, shall notify the 86090
public that the application is on file in the office of the 86091
township fiscal officer and is available for inspection by the 86092
public during regular business hours. The notice shall also 86093
indicate the date and time of any public hearing by the 86094
legislative authority or board of township trustees on the 86095
application. 86096

Within seventy-five days after the date the application is 86097
filed with the mayor of a municipal corporation, the legislative 86098
authority of the municipal corporation by ordinance or resolution 86099
shall approve or disapprove the application based on whether the 86100
proposed community entertainment district does or will 86101
substantially contribute to entertainment, retail, educational, 86102
sporting, social, cultural, or arts opportunities for the 86103
community. The community considered shall at a minimum include the 86104
municipal corporation in which the community is located. Any 86105
approval of an application shall be by an affirmative majority 86106
vote of the legislative authority. 86107

Within seventy-five days after the date the application is 86108
filed with a board of township trustees, the board by resolution 86109
shall approve or disapprove the application based on whether the 86110
proposed community entertainment district does or will 86111
substantially contribute to entertainment, retail, educational, 86112
sporting, social, cultural, or arts opportunities for the 86113
community. The community considered shall at a minimum include the 86114
township in which the community is located. Any approval of an 86115
application shall be by an affirmative majority vote of the board 86116

of township trustees. 86117

If the legislative authority or board of township trustees 86118
disapproves the application, the applicant may make changes in the 86119
application to secure its approval by the legislative authority or 86120
board of township trustees. Any area approved by the legislative 86121
authority or board of township trustees constitutes a community 86122
entertainment district, and a local option election may be 86123
conducted in the district, as a type of community facility, under 86124
section 4301.356 of the Revised Code. 86125

(D) All or part of an area designated as a community 86126
entertainment district may lose this designation as provided in 86127
this division. The legislative authority of a municipal 86128
corporation in which a community entertainment district is 86129
located, or the board of township trustees of the township in 86130
whose unincorporated area a community entertainment district is 86131
located, after giving notice of its proposed action by publication 86132
once a week for two consecutive weeks in ~~at least~~ one newspaper of 86133
general circulation in the municipal corporation or township or as 86134
provided in section 7.16 of the Revised Code, may determine by 86135
ordinance or resolution in the case of the legislative authority 86136
of a municipal corporation, or by resolution in the case of a 86137
board of township trustees of a township, that all or part of the 86138
area fails to meet the standards described in this section for 86139
designation of an area as a community entertainment district. If 86140
the legislative authority or board so determines, the area 86141
designated in the ordinance or resolution no longer constitutes a 86142
community entertainment district. 86143

Sec. 4301.81. (A) As used in this section: 86144

(1) "Revitalization district" means a bounded area that 86145
includes or will include a combination of entertainment, retail, 86146
educational, sporting, social, cultural, or arts establishments 86147

within close proximity to some or all of the following types of	86148
establishments within the district, or other types of	86149
establishments similar to these:	86150
(a) Hotels;	86151
(b) Restaurants;	86152
(c) Retail sales establishments;	86153
(d) Enclosed shopping centers;	86154
(e) Museums;	86155
(f) Performing arts theaters;	86156
(g) Motion picture theaters;	86157
(h) Night clubs;	86158
(i) Convention facilities;	86159
(j) Sports facilities;	86160
(k) Entertainment facilities or complexes;	86161
(1) Any combination of the establishments described in	86162
divisions (A)(1)(a) to (k) of this section that provide similar	86163
services to the community.	86164
(2) "Municipal corporation" means a municipal corporation	86165
with a population of less than one hundred thousand.	86166
(3) "Township" means a township with a population in its	86167
unincorporated area of less than one hundred thousand.	86168
(B) Any owner of property located in a municipal corporation	86169
seeking to have that property, or that property and other	86170
surrounding property, designated as a revitalization district	86171
shall file an application seeking this designation with the mayor	86172
of the municipal corporation in which that property is located.	86173
Any owner of property located in the unincorporated area of a	86174
township seeking to have that property, or that property and other	86175

surrounding property, designated as a revitalization district 86176
shall file an application seeking this designation with the board 86177
of township trustees of the township in whose unincorporated area 86178
that property is located. An application to designate an area as a 86179
revitalization district shall contain all of the following: 86180

(1) The applicant's name and address; 86181

(2) A map or survey of the proposed revitalization district 86182
in sufficient detail to identify the boundaries of the district 86183
and the property owned by the applicant; 86184

(3) A general statement of the nature and types of 86185
establishments described in division (A) of this section that are 86186
or will be located within the proposed revitalization district and 86187
any other establishments located in the proposed revitalization 86188
district that are not described in division (A) of this section; 86189

(4) If some or all of the establishments within the proposed 86190
revitalization district have not yet been developed, the proposed 86191
time frame for completing the development of these establishments; 86192

(5) Evidence that the uses of land within the proposed 86193
revitalization district are in accord with the municipal 86194
corporation's or township's master zoning plan or map; and 86195

(6) A handling and processing fee to accompany the 86196
application, payable to the applicable municipal corporation or 86197
township, in an amount determined by that municipal corporation or 86198
township. 86199

(C) An application relating to an area located in a municipal 86200
corporation shall be addressed and submitted to the mayor of the 86201
municipal corporation in which the area described in the 86202
application is located. The mayor, within thirty days after 86203
receiving the application, shall submit the application with the 86204
mayor's recommendation to the legislative authority of the 86205
municipal corporation. An application relating to an area located 86206

in the unincorporated area of a township shall be addressed and 86207
submitted to the board of township trustees of the township in 86208
whose unincorporated area the area described in the application is 86209
located. The application is a public record for purposes of 86210
section 149.43 of the Revised Code upon its receipt by the mayor 86211
or board of township trustees. 86212

Within thirty days after it receives the application and the 86213
mayor's recommendations relating to the application, the 86214
legislative authority of the municipal corporation, by notice 86215
published once a week for two consecutive weeks in ~~at least~~ one 86216
newspaper of general circulation in the municipal corporation or 86217
as provided in section 7.16 of the Revised Code, shall notify the 86218
public that the application is on file in the office of the clerk 86219
of the municipal corporation and is available for inspection by 86220
the public during regular business hours. Within thirty days after 86221
it receives the application, the board of township trustees, by 86222
notice published once a week for two consecutive weeks in ~~at least~~ 86223
one newspaper of general circulation in the township or as 86224
provided in section 7.16 of the Revised Code, shall notify the 86225
public that the application is on file in the office of the 86226
township fiscal officer and is available for inspection by the 86227
public during regular business hours. The notice shall also 86228
indicate the date and time of any public hearing by the municipal 86229
legislative authority or board of township trustees on the 86230
application. 86231

Within seventy-five days after the date the application is 86232
filed with the mayor of a municipal corporation, the legislative 86233
authority of the municipal corporation by ordinance or resolution 86234
shall approve or disapprove the application based on whether the 86235
proposed revitalization district does or will substantially 86236
contribute to entertainment, retail, educational, sporting, 86237
social, cultural, or arts opportunities for the community. The 86238

community considered shall at a minimum include the municipal 86239
corporation in which the community is located. Any approval of an 86240
application shall be by an affirmative majority vote of the 86241
legislative authority. Not more than one revitalization district 86242
shall be designated within the municipal corporation. 86243

Within seventy-five days after the date the application is 86244
filed with a board of township trustees, the board by resolution 86245
shall approve or disapprove the application based on whether the 86246
proposed revitalization district does or will substantially 86247
contribute to entertainment, retail, educational, sporting, 86248
social, cultural, or arts opportunities for the community. The 86249
community considered shall at a minimum include the township in 86250
which the community is located. Any approval of an application 86251
shall be by an affirmative majority vote of the board of township 86252
trustees. Not more than one revitalization district shall be 86253
designated within the unincorporated area of the township. 86254

If the municipal legislative authority or board of township 86255
trustees disapproves the application, the applicant may make 86256
changes in the application to secure its approval by the 86257
legislative authority or board of township trustees. Any area 86258
approved by the legislative authority or board of township 86259
trustees constitutes a revitalization district, and a local option 86260
election may be conducted in the district, as a type of community 86261
facility, under section 4301.356 of the Revised Code. 86262

(D) All or part of an area designated as a revitalization 86263
district may lose this designation as provided in this division. 86264
The legislative authority of a municipal corporation in which a 86265
revitalization district is located, or the board of township 86266
trustees of the township in whose unincorporated area a 86267
revitalization district is located, after giving notice of its 86268
proposed action by publication once a week for two consecutive 86269
weeks in ~~at least~~ one newspaper of general circulation in the 86270

municipal corporation or township or as provided in section 7.16 86271
of the Revised Code, may determine by ordinance or resolution in 86272
the case of the legislative authority of a municipal corporation, 86273
or by resolution in the case of a board of township trustees of a 86274
township, that all or part of the area fails to meet the standards 86275
described in this section for designation of an area as a 86276
revitalization district. If the legislative authority or board so 86277
determines, the area designated in the ordinance or resolution no 86278
longer constitutes a revitalization district. 86279

Sec. 4303.02. Permit A-1 may be issued to a manufacturer to 86280
manufacture beer and sell beer products in bottles or containers 86281
for home use and to retail and wholesale permit holders under 86282
rules ~~promulgated~~ adopted by the division of liquor control. In 86283
addition, an A-1 permit holder may sell beer and beer products 86284
manufactured on the premises at retail, by individual drink in a 86285
glass or from a container, for consumption on the premises where 86286
sold. The fee for this permit is three thousand nine hundred six 86287
dollars for each plant during the year covered by the permit. 86288

Sec. 4303.209. (A)(1) The division of liquor control may 86289
issue an F-9 permit to a nonprofit corporation that operates a 86290
park on property leased from a municipal corporation or a 86291
nonprofit corporation that provides or manages entertainment 86292
programming pursuant to an agreement with a nonprofit corporation 86293
that operates a park on property leased from a municipal 86294
corporation to sell beer or intoxicating liquor by the individual 86295
drink at specific events conducted within the park property and 86296
appurtenant streets, but only if, and only at times at which, the 86297
sale of beer and intoxicating liquor on the premises is otherwise 86298
permitted by law. Additionally, an F-9 permit may be issued only 86299
if the park property is located in a county that has a population 86300
of between one million one hundred thousand and one million two 86301

hundred thousand on the effective date of this section. 86302

(2) The division may issue separate F-9 permits to a 86303
nonprofit corporation that operates a park on property leased from 86304
a municipal corporation and a nonprofit corporation that provides 86305
or manages entertainment programming pursuant to an agreement with 86306
a nonprofit corporation that operates a park on property leased 86307
from a municipal corporation to be effective during the same time 86308
period. However, the permit privileges may be exercised by only 86309
one of the holders of an F-9 permit at specific events. The other 86310
holder of an F-9 permit shall certify to the division that it will 86311
not exercise its permit privileges during that specific event. 86312

(3) The premises on which an F-9 permit will be used shall be 86313
clearly defined and sufficiently restricted to allow proper 86314
supervision of the permit's use by state and local law enforcement 86315
officers. Sales under an F-9 permit shall be confined to the same 86316
hours permitted to the holder of a D-3 permit. 86317

(4) The fee for an F-9 permit is one thousand seven hundred 86318
dollars. An F-9 permit is effective for a period not to exceed 86319
nine months as specified in the permit. An F-9 permit is not 86320
transferable or renewable. However, the holder of an F-9 permit 86321
may apply for a new F-9 permit at any time. The holder of an F-9 86322
permit shall make sales only at those specific events about which 86323
the permit holder has notified in advance the division of liquor 86324
control, the department of public safety, and the chief, sheriff, 86325
or other principal peace officer of the local law enforcement 86326
agencies having jurisdiction over the premises. 86327

(B)(1) An application for the issuance of an F-9 permit is 86328
subject to the notice and hearing requirements established in 86329
division (A) of section 4303.26 of the Revised Code. 86330

(2) The liquor control commission shall adopt rules under 86331
Chapter 119. of the Revised Code necessary to administer this 86332

section. 86333

(C) No F-9 permit holder shall sell beer or intoxicating liquor beyond the hours of sale allowed by the permit. This division imposes strict liability on the holder of an F-9 permit and on any officer, agent, or employee of that permit holder. 86334
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Sec. 4313.01. As used in this chapter: 86338

(A) "Enterprise acquisition project" means, as applicable, all or any portion of the capital or other assets of the spirituous liquor distribution and merchandising operations of the division of liquor control, including, without limitation, inventory, real property rights, equipment, furnishings, the spirituous liquor distribution system including transportation, the monetary management system, warehouses, contract rights, rights to take assignment of contracts and related receipts and revenues, accounts receivable, the exclusive right to manage and control spirituous liquor distribution and merchandising and to sell spirituous liquor in the state subject to the control of the division of liquor control pursuant to the terms of the transfer agreement, and all necessary appurtenances thereto, or leasehold interests therein, and the assets and liabilities of the facilities establishment fund. 86339
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(B) "JobsOhio" means the nonprofit corporation formed under section 187.01 of the Revised Code and includes any subsidiary of that corporation unless otherwise specified or clearly implied from the context, together with any successor or assignee of that corporation or any such subsidiary if and to the extent permitted by the transfer agreement or Chapter 187. of the Revised Code. 86354
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(C) "Spirituous liquor profits" means all receipts representing the gross profit on the sale of spirituous liquor, as referred to in division (B)(4) of section 4301.10 of the Revised Code, less the costs, expenses, and working capital provided for 86360
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therein, but excluding the sum required by the second paragraph of 86364
section 4301.12 of the Revised Code, as in effect on May 2, 1980, 86365
to be paid into the state treasury, provided that from and after 86366
the initial transfer of the enterprise acquisition project to 86367
JobsOhio and until the transfer back to the state under division 86368
(D) of section 4313.02 of the Revised Code, the reference in 86369
division (B)(4) of section 4301.10 of the Revised Code to all 86370
costs and expenses of the division and also an adequate working 86371
capital reserve for the division shall be to all costs and 86372
expenses of JobsOhio and providing an adequate working capital 86373
reserve for JobsOhio. 86374

(D) "Transfer" means an assignment and sale, conveyance, 86375
granting of a franchise, lease, or transfer of all or an interest. 86376

(E) "Transfer agreement" means the agreement entered into 86377
between the state and JobsOhio providing for the transfer of the 86378
enterprise acquisition project pursuant to section 4313.02 of the 86379
Revised Code and any amendments or supplements thereto. 86380

Sec. 4313.02. (A) The state may transfer to JobsOhio, and 86381
JobsOhio may accept the transfer of, all or a portion of the 86382
enterprise acquisition project for a transfer price payable by 86383
JobsOhio to the state. Any such transfer shall be treated as an 86384
absolute conveyance and true sale of the interest in the 86385
enterprise acquisition project purported to be conveyed for all 86386
purposes, and not as a pledge or other security interest. The 86387
characterization of any such transfer as a true sale and absolute 86388
conveyance shall not be negated or adversely affected by the 86389
acquisition or retention by the state of a residual or 86390
reversionary interest in the enterprise acquisition project, the 86391
participation of any state officer or employee as a member or 86392
officer of JobsOhio or any subsidiary of JobsOhio, any regulatory 86393
responsibility of an officer or employee of the state, including 86394

the authority to collect amounts to be received in connection 86395
therewith, or the retention of the state of any legal title to or 86396
interest in any portion of the enterprise acquisition project for 86397
the purpose of regulatory activities. An absolute conveyance and 86398
true sale or lease shall exist under this section regardless of 86399
whether JobsOhio has any recourse against the state or the 86400
treatment or characterization of the transfer as a financing for 86401
any purpose. Upon and following the transfer, the state shall not 86402
have any right, title, or interest in the enterprise acquisition 86403
project so transferred other than any residual interest that may 86404
be described in the transfer agreement pursuant to the following 86405
paragraph and division (D) of this section. Any determination of 86406
the fair market value of the enterprise acquisition project 86407
reflected in the transfer agreement shall be conclusive and 86408
binding on the state and JobsOhio. 86409

Any transfer of the enterprise acquisition project that is a 86410
lease or grant of a franchise shall be for a term not to exceed 86411
twenty-five years. Any transfer of the enterprise acquisition 86412
project that is an assignment and sale, conveyance, or other 86413
transfer shall contain a provision that the state shall have the 86414
option to have conveyed or transferred back to it, at no cost, the 86415
enterprise acquisition project, as it then exists, no later than 86416
twenty-five years after the original transfer authorized in the 86417
transfer agreement on such other terms as shall be provided in the 86418
transfer agreement. 86419

The exercise of the powers granted by this section will be 86420
for the benefit of the people of the state. All or any portion of 86421
the enterprise acquisition project transferred pursuant to the 86422
transfer agreement that would be exempt from real property taxes 86423
or assessments or real property taxes or assessments in the 86424
absence of such transfer shall, as it may from time to time exist 86425
thereafter, remain exempt from real property taxes or assessments 86426

levied by the state and its subdivisions to the same extent as if 86427
not transferred. The gross receipts and income of JobsOhio derived 86428
from the enterprise acquisition project shall be exempt from 86429
taxation levied by the state and its subdivisions, including, but 86430
not limited to, the taxes levied pursuant to Chapters 718., 5739., 86431
5741., 5747., and 5751. of the Revised Code. Any transfer from the 86432
state to JobsOhio of the enterprise acquisition project, or item 86433
included or to be included in the project, shall be exempt from 86434
the taxes levied pursuant to Chapters 5739. and 5741. of the 86435
Revised Code. 86436

(B) The proceeds of any transfer under division (A) of this 86437
section may be expended as provided in the transfer agreement for 86438
any one or more of the following purposes: 86439

(1) Funding, payment, or defeasance of outstanding bonds 86440
issued pursuant to Chapters 151. and 166. of the Revised Code and 86441
secured by pledged liquor profits as defined in section 151.40 of 86442
the Revised Code; 86443

(2) Deposit into the general revenue fund; 86444

(3) Deposit into the clean Ohio revitalization fund created 86445
pursuant to section 122.658 of the Revised Code, the innovation 86446
Ohio loan fund created pursuant to section 166.16 of the Revised 86447
Code, the research and development loan fund created pursuant to 86448
section 166.20 of the Revised Code, the logistics and distribution 86449
infrastructure fund created pursuant to section 166.26 of the 86450
Revised Code, the advanced energy research and development fund 86451
created pursuant to section 3706.27 of the Revised Code, and the 86452
advanced energy research and development taxable fund created 86453
pursuant to section 3706.27 of the Revised Code; 86454

(4) Conveyance to JobsOhio for the purposes for which it was 86455
created. 86456

(C)(1) The state may covenant, pledge, and agree in the 86457

transfer agreement, with and for the benefit of JobsOhio, that it shall maintain statutory authority for the enterprise acquisition project and the revenues of the enterprise acquisition project and not otherwise materially impair any obligations supported by a pledge of revenues of the enterprise acquisition project. The transfer agreement may provide or authorize the manner for determining material impairment of the security for any such outstanding obligations, including by assessing and evaluating the revenues of the enterprise acquisition project.

(2) The director of budget and management, in consultation with the director of commerce, may, without need for any other approval, negotiate terms of any documents, including the transfer agreement, necessary to effect the transfer and the acceptance of the transfer of the enterprise acquisition project. The director of commerce shall execute the transfer agreement on behalf of the state. The director of budget and management may also, without need for any other approval, retain or contract for the services of commercial appraisers, underwriters, investment bankers, and financial advisers, as are necessary in the judgment of the director of budget and management to effect the transfer agreement. Any transfer agreement may contain terms and conditions established by the state to carry out and effectuate the purposes of this section, including, without limitation, covenants binding the state in favor of JobsOhio. Any such transfer agreement shall be sufficient to effectuate the transfer without regard to any other laws governing other property sales or financial transactions by the state. The director of budget and management may create any funds or accounts, within or without the state treasury, as are needed for the transactions and activities authorized by this section.

(3) The transfer agreement may authorize JobsOhio, in the ordinary course of doing business, to convey, lease, release, or

otherwise dispose of any regular inventory or tangible personal property. Ownership of the interest in the enterprise acquisition project that is transferred to JobsOhio under this section and the transfer agreement shall be maintained in JobsOhio or a nonprofit entity the sole member of which is JobsOhio until the enterprise acquisition project is transferred back to the state pursuant to the second paragraph of division (A) and division (D) of this section. 86490
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(D) The transfer agreement may authorize JobsOhio to fix, alter, and collect rentals and other charges for the use and occupancy of all or any portion of the enterprise acquisition project and to lease any portion of the enterprise acquisition project to the state, and shall include a contract with, or the granting of an option to, the state to have the enterprise acquisition project, as it then exists, transferred back to it without charge in accordance with the terms of the transfer agreement after retirement or redemption, or provision therefor, of all obligations supported by a pledge of spirituous liquor profits. 86498
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(E) JobsOhio, the director of budget and management, and the director of commerce shall, subject to approval by the controlling board, enter into a contract, which may be part of the transfer agreement, for the continuing operation by the division of liquor control of spirituous liquor distribution and merchandising subject to standards for performance provided in that contract that may relate to or support division (C)(1) of this section. The contract shall establish other terms and conditions for the assignment of duties to, and the provision of advice, services, and other assistance by, the division of liquor control, including providing for the necessary staffing and payment by JobsOhio of appropriate compensation to the division for the performance of such duties and the provision of such advice, services, and other 86509
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assistance. The division of liquor control shall manage and 86522
actively supervise the activities required or authorized under 86523
sections 4301.10 and 4301.17 of the Revised Code as those sections 86524
exist on the effective date of this section, including, but not 86525
limited to, controlling the traffic in beer and intoxicating 86526
liquor in this state and fixing the wholesale and retail prices at 86527
which the various classes, varieties, and brands of spirituous 86528
liquor are sold. 86529

(F) The transfer agreement shall require JobsOhio to pay for 86530
the operations of the division of liquor control with regard to 86531
the spirituous liquor merchandising operations of the division. 86532
The payments from JobsOhio shall be deposited into the state 86533
treasury to the credit of the liquor control fund created in 86534
section 4301.12 of the Revised Code. 86535

(G) The transaction and transfer provided for under this 86536
section shall comply with all applicable provisions of the Ohio 86537
Constitution. 86538

Sec. 4503.03. (A)(1)(a) The registrar of motor vehicles may 86539
designate the county auditor in each county a deputy registrar. If 86540
the population of a county is forty thousand or less according to 86541
the last federal census and if the county auditor is designated by 86542
the registrar as a deputy registrar, no other person need be 86543
designated in the county to act as a deputy registrar. 86544

(b) The registrar may designate a clerk of a court of common 86545
pleas as a deputy registrar if the population of the county is 86546
forty thousand or less according to the last federal census. In a 86547
county with a population greater than forty thousand but not more 86548
than fifty thousand according to the last federal census, the 86549
clerk of a court of common pleas is eligible to act as a deputy 86550
registrar and may participate in the competitive selection process 86551
for the award of a deputy registrar contract by applying in the 86552

same manner as any other person. All fees collected and retained 86553
by a clerk for conducting deputy registrar services shall be paid 86554
into the county treasury to the credit of the certificate of title 86555
administration fund created under section 325.33 of the Revised 86556
Code. 86557

(c) In all other instances, the registrar shall contract with 86558
one or more other persons in each county to act as deputy 86559
registrars. Notwithstanding the county population restrictions in 86560
division (A)(1)(b) of this section, if no person applies to act 86561
under contract as a deputy registrar in a county and the county 86562
auditor is not designated as a deputy registrar, the registrar may 86563
ask the clerk of a court of common pleas to serve as the deputy 86564
registrar for that county. 86565

(2) Deputy registrars shall accept applications for the 86566
annual license tax for any vehicle not taxed under section 4503.63 86567
of the Revised Code and shall assign distinctive numbers in the 86568
same manner as the registrar. Such deputies shall be located in 86569
such locations in the county as the registrar sees fit. There 86570
shall be at least one deputy registrar in each county. 86571

Deputy registrar contracts are subject to the provisions of 86572
division (B) of section 125.081 of the Revised Code. 86573

(B) The registrar shall not contract with any person to act 86574
as a deputy registrar if the person or, where applicable, the 86575
person's spouse or a member of the person's immediate family has 86576
made, within the current calendar year or any one of the previous 86577
three calendar years, one or more contributions totaling in excess 86578
of one hundred dollars to any person or entity included in 86579
division (A)(2) of section 4503.033 of the Revised Code. As used 86580
in this division, "immediate family" has the same meaning as in 86581
division (D) of section 102.01 of the Revised Code, and "entity" 86582
includes any political party and any "continuing association" as 86583
defined in division (B)(4) of section 3517.01 of the Revised Code 86584

or "political action committee" as defined in division (B)(8) of 86585
that section that is primarily associated with that political 86586
party. For purposes of this division, contributions to any 86587
continuing association or any political action committee that is 86588
primarily associated with a political party shall be aggregated 86589
with contributions to that political party. 86590

The contribution limitations contained in this division do 86591
not apply to any county auditor or clerk of a court of common 86592
pleas. A county auditor or clerk of a court of common pleas is not 86593
required to file the disclosure statement or pay the filing fee 86594
required under section 4503.033 of the Revised Code. The 86595
limitations of this division also do not apply to a deputy 86596
registrar who, subsequent to being awarded a deputy registrar 86597
contract, is elected to an office of a political subdivision. 86598

The registrar shall not contract with either of the following 86599
to act as a deputy registrar: 86600

(1) Any elected public official other than a county auditor 86601
or, as authorized by division (A)(1)(b) of this section, a clerk 86602
of a court of common pleas, acting in an official capacity, except 86603
that, the registrar shall continue and may renew a contract with 86604
any deputy registrar who, subsequent to being awarded a deputy 86605
registrar contract, is elected to an office of a political 86606
subdivision; 86607

(2) Any person holding a current, valid contract to conduct 86608
motor vehicle inspections under section 3704.14 of the Revised 86609
Code. 86610

As used in division (B) of this section, "political 86611
subdivision" has the same meaning as in section 3501.01 of the 86612
Revised Code. 86613

(C)(1) Except as provided in division (C)(2) of this section, 86614
deputy registrars are independent contractors and neither they nor 86615

their employees are employees of this state, except that nothing 86616
in this section shall affect the status of county auditors or 86617
clerks of courts of common pleas as public officials, nor the 86618
status of their employees as employees of any of the counties of 86619
this state, which are political subdivisions of this state. Each 86620
deputy registrar shall be responsible for the payment of all 86621
unemployment compensation premiums, all workers' compensation 86622
premiums, social security contributions, and any and all taxes for 86623
which the deputy registrar is legally responsible. Each deputy 86624
registrar shall comply with all applicable federal, state, and 86625
local laws requiring the withholding of income taxes or other 86626
taxes from the compensation of the deputy registrar's employees. 86627
Each deputy registrar shall maintain during the entire term of the 86628
deputy registrar's contract a policy of business liability 86629
insurance satisfactory to the registrar and shall hold the 86630
department of public safety, the director of public safety, the 86631
bureau of motor vehicles, and the registrar harmless upon any and 86632
all claims for damages arising out of the operation of the deputy 86633
registrar agency. 86634

(2) For purposes of Chapter 4141. of the Revised Code, 86635
determinations concerning the employment of deputy registrars and 86636
their employees shall be made under Chapter 4141. of the Revised 86637
Code. 86638

(D)(1) With the approval of the director, the registrar shall 86639
adopt rules governing the terms of the contract between the 86640
registrar and each deputy registrar and specifications for the 86641
services to be performed. The rules shall include specifications 86642
relating to the amount of bond to be given as provided in this 86643
section; the size and location of the deputy's office; and the 86644
leasing of equipment necessary to conduct the vision screenings 86645
required under section 4507.12 of the Revised Code and training in 86646
the use of the equipment. The specifications shall permit and 86647

encourage every deputy registrar to inform the public of the 86648
location of the deputy registrar's office and hours of operation 86649
by means of public service announcements and allow any deputy 86650
registrar to advertise in regard to the operation of the deputy 86651
registrar's office. The rules also shall include specifications 86652
for the hours the deputy's office is to be open to the public and 86653
shall require as a minimum that one deputy's office in each county 86654
be open to the public for at least four hours each weekend, 86655
provided that if only one deputy's office is located within the 86656
boundary of the county seat, that office is the office that shall 86657
be open for the four-hour period each weekend, and that every 86658
deputy's office in each county shall be open to the public until 86659
six-thirty p.m. on at least one weeknight each week. The rules 86660
also shall include specifications providing that every deputy in 86661
each county, upon request, provide any person with information 86662
about the location and office hours of all deputy registrars in 86663
the county and that every deputy prominently display within the 86664
deputy's office, the toll-free telephone number of the bureau. The 86665
rules shall not prohibit the award of a deputy registrar contract 86666
to a nonprofit corporation formed under the laws of this state. 86667
The rules shall prohibit any deputy registrar from operating more 86668
than one such office at any time, except that the rules may permit 86669
a nonprofit corporation formed for the purposes of providing 86670
automobile-related services to its members or the public and that 86671
provides such services from more than one location in this state 86672
to operate a deputy registrar office at any such location, 86673
provided that the nonprofit corporation operates no more than one 86674
deputy registrar office in any one county. The rules may include 86675
such other specifications as the registrar and director consider 86676
necessary to provide a high level of service. 86677

~~The rules shall establish procedures for a deputy registrar 86678
who requests such authority to collect reinstatement fees under 86679
sections 4507.1612, 4507.45, 4509.101, 4509.81, 4510.10, 4510.22, 86680~~

~~4510.72, and 4511.191 of the Revised Code and to transmit the 86681
reinstatement fees and two dollars of the service fee collected 86682
under those sections. The registrar shall ensure that, not later 86683
than January 1, 2012, at least one deputy registrar in each county 86684
has the necessary equipment and is able to accept reinstatement 86685
fees. The registrar shall deposit the service fees received from a 86686
deputy registrar under those sections into the state bureau of 86687
motor vehicles fund created in section 4501.25 of the Revised Code 86688
and shall use the money for deputy registrar equipment necessary 86689
in connection with accepting reinstatement fees. 86690~~

(2) As a daily adjustment, the bureau of motor vehicles shall 86691
credit to a deputy registrar three dollars and fifty cents for 86692
each damaged license plate or validation sticker the deputy 86693
registrar replaces as a service to a member of the public. 86694

(3) With the prior approval of the registrar, each deputy 86695
registrar may conduct at the location of the deputy registrar's 86696
office any business that is consistent with the functions of a 86697
deputy registrar and that is not specifically mandated or 86698
authorized by this or another chapter of the Revised Code or by 86699
implementing rules of the registrar. 86700

In accordance with guidelines the director of public safety 86701
shall establish, a deputy registrar may operate or contract for 86702
the operation of a vending machine at a deputy registrar location 86703
if products of the vending machine are consistent with the 86704
functions of a deputy registrar. 86705

(4) As used in this section and in section 4507.01 of the 86706
Revised Code, "nonprofit corporation" has the same meaning as in 86707
section 1702.01 of the Revised Code. 86708

(E) Unless otherwise terminated and except for interim 86709
contracts of less than one year, contracts with deputy registrars 86710
shall be for a term of at least two years, but no more than three 86711

years, and all contracts effective on or after July 1, 1996, shall 86712
be for a term of more than two years, but not more than three 86713
years. All contracts with deputy registrars shall expire on the 86714
last Saturday of June in the year of their expiration. The auditor 86715
of state may examine the accounts, reports, systems, and other 86716
data of each deputy registrar at least every two years. The 86717
registrar, with the approval of the director, shall immediately 86718
remove a deputy who violates any provision of the Revised Code 86719
related to the duties as a deputy, any rule adopted by the 86720
registrar, or a term of the deputy's contract with the registrar. 86721
The registrar also may remove a deputy who, in the opinion of the 86722
registrar, has engaged in any conduct that is either unbecoming to 86723
one representing this state or is inconsistent with the efficient 86724
operation of the deputy's office. 86725

If the registrar, with the approval of the director, 86726
determines that there is good cause to believe that a deputy 86727
registrar or a person proposing for a deputy registrar contract 86728
has engaged in any conduct that would require the denial or 86729
termination of the deputy registrar contract, the registrar may 86730
require the production of books, records, and papers as the 86731
registrar determines are necessary, and may take the depositions 86732
of witnesses residing within or outside the state in the same 86733
manner as is prescribed by law for the taking of depositions in 86734
civil actions in the court of common pleas, and for that purpose 86735
the registrar may issue a subpoena for any witness or a subpoena 86736
duces tecum to compel the production of any books, records, or 86737
papers, directed to the sheriff of the county where the witness 86738
resides or is found. Such a subpoena shall be served and returned 86739
in the same manner as a subpoena in a criminal case is served and 86740
returned. The fees of the sheriff shall be the same as that 86741
allowed in the court of common pleas in criminal cases. Witnesses 86742
shall be paid the fees and mileage provided for under section 86743
119.094 of the Revised Code. The fees and mileage shall be paid 86744

from the fund in the state treasury for the use of the agency in 86745
the same manner as other expenses of the agency are paid. 86746

In any case of disobedience or neglect of any subpoena served 86747
on any person or the refusal of any witness to testify to any 86748
matter regarding which the witness lawfully may be interrogated, 86749
the court of common pleas of any county where the disobedience, 86750
neglect, or refusal occurs or any judge of that court, on 86751
application by the registrar, shall compel obedience by attachment 86752
proceedings for contempt, as in the case of disobedience of the 86753
requirements of a subpoena issued from that court, or a refusal to 86754
testify in that court. 86755

Nothing in this division shall be construed to require a 86756
hearing of any nature prior to the termination of any deputy 86757
registrar contract by the registrar, with the approval of the 86758
director, for cause. 86759

(F) Except as provided in section 2743.03 of the Revised 86760
Code, no court, other than the court of common pleas of Franklin 86761
county, has jurisdiction of any action against the department of 86762
public safety, the director, the bureau, or the registrar to 86763
restrain the exercise of any power or authority, or to entertain 86764
any action for declaratory judgment, in the selection and 86765
appointment of, or contracting with, deputy registrars. Neither 86766
the department, the director, the bureau, nor the registrar is 86767
liable in any action at law for damages sustained by any person 86768
because of any acts of the department, the director, the bureau, 86769
or the registrar, or of any employee of the department or bureau, 86770
in the performance of official duties in the selection and 86771
appointment of, and contracting with, deputy registrars. 86772

(G) The registrar shall assign to each deputy registrar a 86773
series of numbers sufficient to supply the demand at all times in 86774
the area the deputy registrar serves, and the registrar shall keep 86775
a record in the registrar's office of the numbers within the 86776

series assigned. Each deputy shall be required to give bond in the amount of at least twenty-five thousand dollars, or in such higher amount as the registrar determines necessary, based on a uniform schedule of bond amounts established by the registrar and determined by the volume of registrations handled by the deputy. The form of the bond shall be prescribed by the registrar. The bonds required of deputy registrars, in the discretion of the registrar, may be individual or schedule bonds or may be included in any blanket bond coverage carried by the department.

(H) Each deputy registrar shall keep a file of each application received by the deputy and shall register that motor vehicle with the name and address of its owner.

(I) Upon request, a deputy registrar shall make the physical inspection of a motor vehicle and issue the physical inspection certificate required in section 4505.061 of the Revised Code.

(J) Each deputy registrar shall file a report ~~semi-annually~~ semiannually with the registrar of motor vehicles listing the number of applicants for licenses the deputy has served, the number of voter registration applications the deputy has completed and transmitted to the board of elections, and the number of voter registration applications declined.

Sec. 4503.06. (A) The owner of each manufactured or mobile home that has acquired situs in this state shall pay either a real property tax pursuant to Title LVII of the Revised Code or a manufactured home tax pursuant to division (C) of this section.

(B) The owner of a manufactured or mobile home shall pay real property taxes if either of the following applies:

(1) The manufactured or mobile home acquired situs in the state or ownership in the home was transferred on or after January 1, 2000, and all of the following apply:

(a) The home is affixed to a permanent foundation as defined 86807
in division (C)(5) of section 3781.06 of the Revised Code. 86808

(b) The home is located on land that is owned by the owner of 86809
the home. 86810

(c) The certificate of title has been inactivated by the 86811
clerk of the court of common pleas that issued it, pursuant to 86812
division (H) of section 4505.11 of the Revised Code. 86813

(2) The manufactured or mobile home acquired situs in the 86814
state or ownership in the home was transferred before January 1, 86815
2000, and all of the following apply: 86816

(a) The home is affixed to a permanent foundation as defined 86817
in division (C)(5) of section 3781.06 of the Revised Code. 86818

(b) The home is located on land that is owned by the owner of 86819
the home. 86820

(c) The owner of the home has elected to have the home taxed 86821
as real property and, pursuant to section 4505.11 of the Revised 86822
Code, has surrendered the certificate of title to the auditor of 86823
the county containing the taxing district in which the home has 86824
its situs, together with proof that all taxes have been paid. 86825

(d) The county auditor has placed the home on the real 86826
property tax list and delivered the certificate of title to the 86827
clerk of the court of common pleas that issued it and the clerk 86828
has inactivated the certificate. 86829

(C)(1) Any mobile or manufactured home that is not taxed as 86830
real property as provided in division (B) of this section is 86831
subject to an annual manufactured home tax, payable by the owner, 86832
for locating the home in this state. The tax as levied in this 86833
section is for the purpose of supplementing the general revenue 86834
funds of the local subdivisions in which the home has its situs 86835
pursuant to this section. 86836

(2) The year for which the manufactured home tax is levied 86837
commences on the first day of January and ends on the following 86838
thirty-first day of December. The state shall have the first lien 86839
on any manufactured or mobile home on the list for the amount of 86840
taxes, penalties, and interest charged against the owner of the 86841
home under this section. The lien of the state for the tax for a 86842
year shall attach on the first day of January to a home that has 86843
acquired situs on that date. The lien for a home that has not 86844
acquired situs on the first day of January, but that acquires 86845
situs during the year, shall attach on the next first day of 86846
January. The lien shall continue until the tax, including any 86847
penalty or interest, is paid. 86848

(3)(a) The situs of a manufactured or mobile home located in 86849
this state on the first day of January is the local taxing 86850
district in which the home is located on that date. 86851

(b) The situs of a manufactured or mobile home not located in 86852
this state on the first day of January, but located in this state 86853
subsequent to that date, is the local taxing district in which the 86854
home is located thirty days after it is acquired or first enters 86855
this state. 86856

(4) The tax is collected by and paid to the county treasurer 86857
of the county containing the taxing district in which the home has 86858
its situs. 86859

(D) The manufactured home tax shall be computed and assessed 86860
by the county auditor of the county containing the taxing district 86861
in which the home has its situs as follows: 86862

(1) On a home that acquired situs in this state prior to 86863
January 1, 2000: 86864

(a) By multiplying the assessable value of the home by the 86865
tax rate of the taxing district in which the home has its situs, 86866
and deducting from the product thus obtained any reduction 86867

authorized under section 4503.065 of the Revised Code. The tax 86868
levied under this formula shall not be less than thirty-six 86869
dollars, unless the home qualifies for a reduction in assessable 86870
value under section 4503.065 of the Revised Code, in which case 86871
there shall be no minimum tax and the tax shall be the amount 86872
calculated under this division. 86873

(b) The assessable value of the home shall be forty per cent 86874
of the amount arrived at by the following computation: 86875

(i) If the cost to the owner, or market value at time of 86876
purchase, whichever is greater, of the home includes the 86877
furnishings and equipment, such cost or market value shall be 86878
multiplied according to the following schedule: 86879

For the first calendar year			86880
in which the			86881
home is owned by the			86882
current owner	x	80%	86883
2nd calendar year	x	75%	86884
3rd "	x	70%	86885
4th "	x	65%	86886
5th "	x	60%	86887
6th "	x	55%	86888
7th "	x	50%	86889
8th "	x	45%	86890
9th "	x	40%	86891
10th and each year thereafter	x	35%	86892

The first calendar year means any period between the first 86893
day of January and the thirty-first day of December of the first 86894
year. 86895

(ii) If the cost to the owner, or market value at the time of 86896
purchase, whichever is greater, of the home does not include the 86897
furnishings and equipment, such cost or market value shall be 86898
multiplied according to the following schedule: 86899

For the first calendar year			86900
in which the			86901
home is owned by the			86902
current owner	x	95%	86903
2nd calendar year	x	90%	86904
3rd "	x	85%	86905
4th "	x	80%	86906
5th "	x	75%	86907
6th "	x	70%	86908
7th "	x	65%	86909
8th "	x	60%	86910
9th "	x	55%	86911
10th and each year thereafter	x	50%	86912

The first calendar year means any period between the first 86913
day of January and the thirty-first day of December of the first 86914
year. 86915

(2) On a home in which ownership was transferred or that 86916
first acquired situs in this state on or after January 1, 2000: 86917

(a) By multiplying the assessable value of the home by the 86918
effective tax rate, as defined in section 323.08 of the Revised 86919
Code, for residential real property of the taxing district in 86920
which the home has its situs, and deducting from the product thus 86921
obtained the reductions required or authorized under section 86922
319.302, division (B) of section 323.152, or section 4503.065 of 86923
the Revised Code. 86924

(b) The assessable value of the home shall be thirty-five per 86925
cent of its true value as determined under division (L) of this 86926
section. 86927

(3) On or before the fifteenth day of January each year, the 86928
county auditor shall record the assessable value and the amount of 86929
tax on the manufactured or mobile home on the tax list and deliver 86930
a duplicate of the list to the county treasurer. In the case of an 86931

emergency as defined in section 323.17 of the Revised Code, the 86932
tax commissioner, by journal entry, may extend the times for 86933
delivery of the duplicate for an additional fifteen days upon 86934
receiving a written application from the county auditor regarding 86935
an extension for the delivery of the duplicate, or from the county 86936
treasurer regarding an extension of the time for the billing and 86937
collection of taxes. The application shall contain a statement 86938
describing the emergency that will cause the unavoidable delay and 86939
must be received by the tax commissioner on or before the last day 86940
of the month preceding the day delivery of the duplicate is 86941
otherwise required. When an extension is granted for delivery of 86942
the duplicate, the time period for payment of taxes shall be 86943
extended for a like period of time. When a delay in the closing of 86944
a tax collection period becomes unavoidable, the tax commissioner, 86945
upon application by the county auditor and county treasurer, may 86946
order the time for payment of taxes to be extended if the tax 86947
commissioner determines that penalties have accrued or would 86948
otherwise accrue for reasons beyond the control of the taxpayers 86949
of the county. The order shall prescribe the final extended date 86950
for payment of taxes for that collection period. 86951

(4) After January 1, 1999, the owner of a manufactured or 86952
mobile home taxed pursuant to division (D)(1) of this section may 86953
elect to have the home taxed pursuant to division (D)(2) of this 86954
section by filing a written request with the county auditor of the 86955
taxing district in which the home is located on or before the 86956
first day of December of any year. Upon the filing of the request, 86957
the county auditor shall determine whether all taxes levied under 86958
division (D)(1) of this section have been paid, and if those taxes 86959
have been paid, the county auditor shall tax the manufactured or 86960
mobile home pursuant to division (D)(2) of this section commencing 86961
in the next tax year. 86962

(5) A manufactured or mobile home that acquired situs in this 86963

state prior to January 1, 2000, shall be taxed pursuant to 86964
division (D)(2) of this section if no manufactured home tax had 86965
been paid for the home and the home was not exempted from taxation 86966
pursuant to division (E) of this section for the year for which 86967
the taxes were not paid. 86968

(6)(a) Immediately upon receipt of any manufactured home tax 86969
duplicate from the county auditor, but not less than twenty days 86970
prior to the last date on which the first one-half taxes may be 86971
paid without penalty as prescribed in division (F) of this 86972
section, the county treasurer shall cause to be prepared and 86973
mailed or delivered to each person charged on that duplicate with 86974
taxes, or to an agent designated by such person, the tax bill 86975
prescribed by the tax commissioner under division (D)(7) of this 86976
section. When taxes are paid by installments, the county treasurer 86977
shall mail or deliver to each person charged on such duplicate or 86978
the agent designated by that person a second tax bill showing the 86979
amount due at the time of the second tax collection. The second 86980
half tax bill shall be mailed or delivered at least twenty days 86981
prior to the close of the second half tax collection period. A 86982
change in the mailing address of any tax bill shall be made in 86983
writing to the county treasurer. Failure to receive a bill 86984
required by this section does not excuse failure or delay to pay 86985
any taxes shown on the bill or, except as provided in division 86986
(B)(1) of section 5715.39 of the Revised Code, avoid any penalty, 86987
interest, or charge for such delay. 86988

(b) After delivery of the copy of the delinquent manufactured 86989
home tax list under division (H) of this section, the county 86990
treasurer may prepare and mail to each person in whose name a home 86991
is listed an additional tax bill showing the total amount of 86992
delinquent taxes charged against the home as shown on the list. 86993
The tax bill shall include a notice that the interest charge 86994
prescribed by division (G) of this section has begun to accrue. 86995

(7) Each tax bill prepared and mailed or delivered under 86996
division (D)(6) of this section shall be in the form and contain 86997
the information required by the tax commissioner. The commissioner 86998
may prescribe different forms for each county and may authorize 86999
the county auditor to make up tax bills and tax receipts to be 87000
used by the county treasurer. The tax bill shall not contain or be 87001
mailed or delivered with any information or material that is not 87002
required by this section or that is not authorized by section 87003
321.45 of the Revised Code or by the tax commissioner. In addition 87004
to the information required by the commissioner, each tax bill 87005
shall contain the following information: 87006

(a) The taxes levied and the taxes charged and payable 87007
against the manufactured or mobile home; 87008

(b) The following notice: "Notice: If the taxes are not paid 87009
within sixty days after the county auditor delivers the delinquent 87010
manufactured home tax list to the county treasurer, you and your 87011
home may be subject to collection proceedings for tax 87012
delinquency." Failure to provide such notice has no effect upon 87013
the validity of any tax judgment to which a home may be subjected. 87014

(c) In the case of manufactured or mobile homes taxed under 87015
division (D)(2) of this section, the following additional 87016
information: 87017

(i) The effective tax rate. The words "effective tax rate" 87018
shall appear in boldface type. 87019

(ii) The following notice: "Notice: If the taxes charged 87020
against this home have been reduced by the 2-1/2 per cent tax 87021
reduction for residences occupied by the owner but the home is not 87022
a residence occupied by the owner, the owner must notify the 87023
county auditor's office not later than March 31 of the year for 87024
which the taxes are due. Failure to do so may result in the owner 87025
being convicted of a fourth degree misdemeanor, which is 87026

punishable by imprisonment up to 30 days, a fine up to \$250, or 87027
both, and in the owner having to repay the amount by which the 87028
taxes were erroneously or illegally reduced, plus any interest 87029
that may apply. 87030

If the taxes charged against this home have not been reduced 87031
by the 2-1/2 per cent tax reduction and the home is a residence 87032
occupied by the owner, the home may qualify for the tax reduction. 87033
To obtain an application for the tax reduction or further 87034
information, the owner may contact the county auditor's office at 87035
..... (insert the address and telephone number of the county 87036
auditor's office)." 87037

(E)(1) A manufactured or mobile home is not subject to this 87038
section when any of the following applies: 87039

(a) It is taxable as personal property pursuant to section 87040
5709.01 of the Revised Code. Any manufactured or mobile home that 87041
is used as a residence shall be subject to this section and shall 87042
not be taxable as personal property pursuant to section 5709.01 of 87043
the Revised Code. 87044

(b) It bears a license plate issued by any state other than 87045
this state unless the home is in this state in excess of an 87046
accumulative period of thirty days in any calendar year. 87047

(c) The annual tax has been paid on the home in this state 87048
for the current year. 87049

(d) The tax commissioner has determined, pursuant to section 87050
5715.27 of the Revised Code, that the property is exempt from 87051
taxation, or would be exempt from taxation under Chapter 5709. of 87052
the Revised Code if it were classified as real property. 87053

(2) A travel trailer or park trailer, as these terms are 87054
defined in section 4501.01 of the Revised Code, is not subject to 87055
this section if it is unused or unoccupied and stored at the 87056
owner's normal place of residence or at a recognized storage 87057

facility. 87058

(3) A travel trailer or park trailer, as these terms are 87059
defined in section 4501.01 of the Revised Code, is subject to this 87060
section and shall be taxed as a manufactured or mobile home if it 87061
has a situs longer than thirty days in one location and is 87062
connected to existing utilities, unless either of the following 87063
applies: 87064

(a) The situs is in a state facility or a camping or park 87065
area as defined in division (C), (Q), (S), or (V) of section 87066
3729.01 of the Revised Code. 87067

(b) The situs is in a camping or park area that is a tract of 87068
land that has been limited to recreational use by deed or zoning 87069
restrictions and subdivided for sale of five or more individual 87070
lots for the express or implied purpose of occupancy by either 87071
self-contained recreational vehicles as defined in division (T) of 87072
section 3729.01 of the Revised Code or by dependent recreational 87073
vehicles as defined in division (D) of section 3729.01 of the 87074
Revised Code. 87075

(F) Except as provided in division (D)(3) of this section, 87076
the manufactured home tax is due and payable as follows: 87077

(1) When a manufactured or mobile home has a situs in this 87078
state, as provided in this section, on the first day of January, 87079
one-half of the amount of the tax is due and payable on or before 87080
the first day of March and the balance is due and payable on or 87081
before the thirty-first day of July. At the option of the owner of 87082
the home, the tax for the entire year may be paid in full on the 87083
first day of March. 87084

(2) When a manufactured or mobile home first acquires a situs 87085
in this state after the first day of January, no tax is due and 87086
payable for that year. 87087

(G)(1)(a) Except as otherwise provided in division (G)(1)(b) 87088

of this section, if one-half of the current taxes charged under 87089
this section against a manufactured or mobile home, together with 87090
the full amount of any delinquent taxes, are not paid on or before 87091
the first day of March in that year, or on or before the last day 87092
for such payment as extended pursuant to section 4503.063 of the 87093
Revised Code, a penalty of ten per cent shall be charged against 87094
the unpaid balance of such half of the current taxes. If the total 87095
amount of all such taxes is not paid on or before the thirty-first 87096
day of July, next thereafter, or on or before the last day for 87097
payment as extended pursuant to section 4503.063 of the Revised 87098
Code, a like penalty shall be charged on the balance of the total 87099
amount of the unpaid current taxes. 87100

(b) After a valid delinquent tax contract that includes 87101
unpaid current taxes from a first-half collection period described 87102
in division (F) of this section has been entered into under 87103
section 323.31 of the Revised Code, no ten per cent penalty shall 87104
be charged against such taxes after the second-half collection 87105
period while the delinquent tax contract remains in effect. On the 87106
day a delinquent tax contract becomes void, the ten per cent 87107
penalty shall be charged against such taxes and shall equal the 87108
amount of penalty that would have been charged against unpaid 87109
current taxes outstanding on the date on which the second-half 87110
penalty would have been charged thereon under division (G)(1)(a) 87111
of this section if the contract had not been in effect. 87112

(2)(a) On the first day of the month following the last day 87113
the second installment of taxes may be paid without penalty 87114
beginning in 2000, interest shall be charged against and computed 87115
on all delinquent taxes other than the current taxes that became 87116
delinquent taxes at the close of the last day such second 87117
installment could be paid without penalty. The charge shall be for 87118
interest that accrued during the period that began on the 87119
preceding first day of December and ended on the last day of the 87120

month that included the last date such second installment could be 87121
paid without penalty. The interest shall be computed at the rate 87122
per annum prescribed by section 5703.47 of the Revised Code and 87123
shall be entered as a separate item on the delinquent manufactured 87124
home tax list compiled under division (H) of this section. 87125

(b) On the first day of December beginning in 2000, the 87126
interest shall be charged against and computed on all delinquent 87127
taxes. The charge shall be for interest that accrued during the 87128
period that began on the first day of the month following the last 87129
date prescribed for the payment of the second installment of taxes 87130
in the current year and ended on the immediately preceding last 87131
day of November. The interest shall be computed at the rate per 87132
annum prescribed by section 5703.47 of the Revised Code and shall 87133
be entered as a separate item on the delinquent manufactured home 87134
tax list. 87135

(c) After a valid undertaking has been entered into for the 87136
payment of any delinquent taxes, no interest shall be charged 87137
against such delinquent taxes while the undertaking remains in 87138
effect in compliance with section 323.31 of the Revised Code. If a 87139
valid undertaking becomes void, interest shall be charged against 87140
the delinquent taxes for the periods that interest was not 87141
permitted to be charged while the undertaking was in effect. The 87142
interest shall be charged on the day the undertaking becomes void 87143
and shall equal the amount of interest that would have been 87144
charged against the unpaid delinquent taxes outstanding on the 87145
dates on which interest would have been charged thereon under 87146
divisions (G)(1) and (2) of this section had the undertaking not 87147
been in effect. 87148

(3) If the full amount of the taxes due at either of the 87149
times prescribed by division (F) of this section is paid within 87150
ten days after such time, the county treasurer shall waive the 87151
collection of and the county auditor shall remit one-half of the 87152

penalty provided for in this division for failure to make that 87153
payment by the prescribed time. 87154

(4) The treasurer shall compile and deliver to the county 87155
auditor a list of all tax payments the treasurer has received as 87156
provided in division (G)(3) of this section. The list shall 87157
include any information required by the auditor for the remission 87158
of the penalties waived by the treasurer. The taxes so collected 87159
shall be included in the settlement next succeeding the settlement 87160
then in process. 87161

(H)(1) ~~Beginning in 2000, the~~ The county auditor shall 87162
compile annually a "delinquent manufactured home tax list" 87163
consisting of homes the county treasurer's records indicate have 87164
taxes that were not paid within the time prescribed by divisions 87165
(D)(3) and (F) of this section, have taxes that remain unpaid from 87166
prior years, or have unpaid tax penalties or interest that have 87167
been assessed. 87168

(2) Within thirty days after the settlement under division 87169
(H)(2) of section 321.24 of the Revised Code ~~beginning in 2000,~~ 87170
the county auditor shall deliver a copy of the delinquent 87171
manufactured home tax list to the county treasurer. The auditor 87172
shall update and publish the delinquent manufactured home tax list 87173
annually in the same manner as delinquent real property tax lists 87174
are published. The county auditor ~~shall~~ may apportion the cost of 87175
publishing the list among taxing districts in proportion to the 87176
amount of delinquent manufactured home taxes so published that 87177
each taxing district is entitled to receive upon collection of 87178
those taxes, or the county auditor may charge the owner of a home 87179
on the list a flat fee established under section 319.54 of the 87180
Revised Code for the cost of publishing the list and, if the fee 87181
is not paid, may place the fee upon the delinquent manufactured 87182
home tax list as a lien on the listed home, to be collected as 87183
other manufactured home taxes. 87184

(3) When taxes, penalties, or interest are charged against a person on the delinquent manufactured home tax list and are not paid within sixty days after the list is delivered to the county treasurer, the county treasurer shall, in addition to any other remedy provided by law for the collection of taxes, penalties, and interest, enforce collection of such taxes, penalties, and interest by civil action in the name of the treasurer against the owner for the recovery of the unpaid taxes following the procedures for the recovery of delinquent real property taxes in sections 323.25 to 323.28 of the Revised Code. The action may be brought in municipal or county court, provided the amount charged does not exceed the monetary limitations for original jurisdiction for civil actions in those courts.

It is sufficient, having made proper parties to the suit, for the county treasurer to allege in the treasurer's bill of particulars or petition that the taxes stand chargeable on the books of the county treasurer against such person, that they are due and unpaid, and that such person is indebted in the amount of taxes appearing to be due the county. The treasurer need not set forth any other matter relating thereto. If it is found on the trial of the action that the person is indebted to the state, judgment shall be rendered in favor of the county treasurer prosecuting the action. The judgment debtor is not entitled to the benefit of any law for stay of execution or exemption of property from levy or sale on execution in the enforcement of the judgment.

Upon the filing of an entry of confirmation of sale or an order of forfeiture in a proceeding brought under this division, title to the manufactured or mobile home shall be in the purchaser. The clerk of courts shall issue a certificate of title to the purchaser upon presentation of proof of filing of the entry of confirmation or order and, in the case of a forfeiture, presentation of the county auditor's certificate of sale.

(I) The total amount of taxes collected shall be distributed 87217
in the following manner: four per cent shall be allowed as 87218
compensation to the county auditor for the county auditor's 87219
service in assessing the taxes; two per cent shall be allowed as 87220
compensation to the county treasurer for the services the county 87221
treasurer renders as a result of the tax levied by this section. 87222
Such amounts shall be paid into the county treasury, to the credit 87223
of the county general revenue fund, on the warrant of the county 87224
auditor. Fees to be paid to the credit of the real estate 87225
assessment fund shall be collected pursuant to division (C) of 87226
section 319.54 of the Revised Code and paid into the county 87227
treasury, on the warrant of the county auditor. The balance of the 87228
taxes collected shall be distributed among the taxing subdivisions 87229
of the county in which the taxes are collected and paid in the 87230
same ratio as those taxes were collected for the benefit of the 87231
taxing subdivision. The taxes levied and revenues collected under 87232
this section shall be in lieu of any general property tax and any 87233
tax levied with respect to the privilege of using or occupying a 87234
manufactured or mobile home in this state except as provided in 87235
sections 4503.04 and 5741.02 of the Revised Code. 87236

(J) An agreement to purchase or a bill of sale for a 87237
manufactured home shall show whether or not the furnishings and 87238
equipment are included in the purchase price. 87239

(K) If the county treasurer and the county prosecuting 87240
attorney agree that an item charged on the delinquent manufactured 87241
home tax list is uncollectible, they shall certify that 87242
determination and the reasons to the county board of revision. If 87243
the board determines the amount is uncollectible, it shall certify 87244
its determination to the county auditor, who shall strike the item 87245
from the list. 87246

(L)(1) The county auditor shall appraise at its true value 87247
any manufactured or mobile home in which ownership is transferred 87248

or which first acquires situs in this state on or after January 1, 87249
2000, and any manufactured or mobile home the owner of which has 87250
elected, under division (D)(4) of this section, to have the home 87251
taxed under division (D)(2) of this section. The true value shall 87252
include the value of the home, any additions, and any fixtures, 87253
but not any furnishings in the home. In determining the true value 87254
of a manufactured or mobile home, the auditor shall consider all 87255
facts and circumstances relating to the value of the home, 87256
including its age, its capacity to function as a residence, any 87257
obsolete characteristics, and other factors that may tend to prove 87258
its true value. 87259

(2)(a) If a manufactured or mobile home has been the subject 87260
of an arm's length sale between a willing seller and a willing 87261
buyer within a reasonable length of time prior to the 87262
determination of true value, the county auditor shall consider the 87263
sale price of the home to be the true value for taxation purposes. 87264

(b) The sale price in an arm's length transaction between a 87265
willing seller and a willing buyer shall not be considered the 87266
true value of the home if either of the following occurred after 87267
the sale: 87268

(i) The home has lost value due to a casualty. 87269

(ii) An addition or fixture has been added to the home. 87270

(3) The county auditor shall have each home viewed and 87271
appraised at least once in each six-year period in the same year 87272
in which real property in the county is appraised pursuant to 87273
Chapter 5713. of the Revised Code, and shall update the appraised 87274
values in the third calendar year following the appraisal. The 87275
person viewing or appraising a home may enter the home to 87276
determine by actual view any additions or fixtures that have been 87277
added since the last appraisal. In conducting the appraisals and 87278
establishing the true value, the auditor shall follow the 87279

procedures set forth for appraising real property in sections 87280
5713.01 and 5713.03 of the Revised Code. 87281

(4) The county auditor shall place the true value of each 87282
home on the manufactured home tax list upon completion of an 87283
appraisal. 87284

(5)(a) If the county auditor changes the true value of a 87285
home, the auditor shall notify the owner of the home in writing, 87286
delivered by mail or in person. The notice shall be given at least 87287
thirty days prior to the issuance of any tax bill that reflects 87288
the change. Failure to receive the notice does not invalidate any 87289
proceeding under this section. 87290

(b) Any owner of a home or any other person or party listed 87291
in division (A)(1) of section 5715.19 of the Revised Code may file 87292
a complaint against the true value of the home as appraised under 87293
this section. The complaint shall be filed with the county auditor 87294
on or before the thirty-first day of March of the current tax year 87295
or the date of closing of the collection for the first half of 87296
manufactured home taxes for the current tax year, whichever is 87297
later. The auditor shall present to the county board of revision 87298
all complaints filed with the auditor under this section. The 87299
board shall hear and investigate the complaint and may take action 87300
on it as provided under sections 5715.11 to 5715.19 of the Revised 87301
Code. 87302

(c) If the county board of revision determines, pursuant to a 87303
complaint against the valuation of a manufactured or mobile home 87304
filed under this section, that the amount of taxes, assessments, 87305
or other charges paid was in excess of the amount due based on the 87306
valuation as finally determined, then the overpayment shall be 87307
refunded in the manner prescribed in section 5715.22 of the 87308
Revised Code. 87309

(d) Payment of all or part of a tax under this section for 87310

any year for which a complaint is pending before the county board 87311
of revision does not abate the complaint or in any way affect the 87312
hearing and determination thereof. 87313

(M) If the county auditor determines that any tax or other 87314
charge or any part thereof has been erroneously charged as a 87315
result of a clerical error as defined in section 319.35 of the 87316
Revised Code, the county auditor shall call the attention of the 87317
county board of revision to the erroneous charges. If the board 87318
finds that the taxes or other charges have been erroneously 87319
charged or collected, it shall certify the finding to the auditor. 87320
Upon receipt of the certification, the auditor shall remove the 87321
erroneous charges on the manufactured home tax list or delinquent 87322
manufactured home tax list in the same manner as is prescribed in 87323
section 319.35 of the Revised Code for erroneous charges against 87324
real property, and refund any erroneous charges that have been 87325
collected, with interest, in the same manner as is prescribed in 87326
section 319.36 of the Revised Code for erroneous charges against 87327
real property. 87328

(N) As used in this section and section 4503.061 of the 87329
Revised Code: 87330

(1) "Manufactured home taxes" includes taxes, penalties, and 87331
interest charged under division (C) or (G) of this section and any 87332
penalties charged under division (G) or (H)(5) of section 4503.061 87333
of the Revised Code. 87334

(2) "Current taxes" means all manufactured home taxes charged 87335
against a manufactured or mobile home that have not appeared on 87336
the manufactured home tax list for any prior year. Current taxes 87337
become delinquent taxes if they remain unpaid after the last day 87338
prescribed for payment of the second installment of current taxes 87339
without penalty, whether or not they have been certified 87340
delinquent. 87341

(3) "Delinquent taxes" means: 87342

(a) Any manufactured home taxes that were charged against a 87343
manufactured or mobile home for a prior year, including any 87344
penalties or interest charged for a prior year and the costs of 87345
publication under division (H)(2) of this section, and that remain 87346
unpaid; 87347

(b) Any current manufactured home taxes charged against a 87348
manufactured or mobile home that remain unpaid after the last day 87349
prescribed for payment of the second installment of current taxes 87350
without penalty, whether or not they have been certified 87351
delinquent, including any penalties or interest and the costs of 87352
publication under division (H)(2) of this section. 87353

Sec. 4503.061. (A) All manufactured and mobile homes shall be 87354
listed on either the real property tax list or the manufactured 87355
home tax list of the county in which the home has situs. Each 87356
owner shall follow the procedures in this section to identify the 87357
home to the county auditor of the county containing the taxing 87358
district in which the home has situs so that the auditor may place 87359
the home on the appropriate tax list. 87360

(B) When a manufactured or mobile home first acquires situs 87361
in this state and is subject to real property taxation pursuant to 87362
division (B)(1) or (2) of section 4503.06 of the Revised Code, the 87363
owner shall present to the auditor of the county containing the 87364
taxing district in which the home has its situs the certificate of 87365
title for the home, together with proof that all taxes due have 87366
been paid and proof that a relocation notice was obtained for the 87367
home if required under this section. Upon receiving the 87368
certificate of title and the required proofs, the auditor shall 87369
place the home on the real property tax list and proceed to treat 87370
the home as other properties on that list. After the auditor has 87371
placed the home on the tax list of real and public utility 87372

property, the auditor shall deliver the certificate of title to 87373
the clerk of the court of common pleas that issued it pursuant to 87374
section 4505.11 of the Revised Code, and the clerk shall 87375
inactivate the certificate of title. 87376

(C)(1) When a manufactured or mobile home subject to a 87377
manufactured home tax is relocated to or first acquires situs in 87378
any county that has adopted a permanent manufactured home 87379
registration system, as provided in division (F) of this section, 87380
the owner, within thirty days after the home is relocated or first 87381
acquires situs under section 4503.06 of the Revised Code, shall 87382
register the home with the county auditor of the county containing 87383
the taxing district in which the home has its situs. For the first 87384
registration in each county of situs, the owner or vendee in 87385
possession shall present to the county auditor an Ohio certificate 87386
of title, certified copy of the certificate of title, or 87387
memorandum certificate of title as such are required by law, and 87388
proof, as required by the county auditor, that the home, if it has 87389
previously been occupied and is being relocated, has been 87390
previously registered, that all taxes due and required to be paid 87391
under division (H)(1) of this section before a relocation notice 87392
may be issued have been paid, and that a relocation notice was 87393
obtained for the home if required by division (H) of this section. 87394
If the owner or vendee does not possess the Ohio certificate of 87395
title, certified copy of the certificate of title, or memorandum 87396
certificate of title at the time the owner or vendee first 87397
registers the home in a county, the county auditor shall register 87398
the home without presentation of the document, but the owner or 87399
vendee shall present the certificate of title, certified copy of 87400
the certificate of title, or memorandum certificate of title to 87401
the county auditor within fourteen days after the owner or vendee 87402
obtains possession of the document. 87403

(2) When a manufactured or mobile home is registered for the 87404

first time in a county and when the total tax due has been paid as 87405
required by division (F) of section 4503.06 of the Revised Code or 87406
divisions (E) and (H) of this section, the county treasurer shall 87407
note by writing or by a stamp on the certificate of title, 87408
certified copy of certificate of title, or memorandum certificate 87409
of title that the home has been registered and that the taxes due, 87410
if any, have been paid for the preceding five years and for the 87411
current year. The treasurer shall then issue a certificate 87412
evidencing registration and a decal to be displayed on the street 87413
side of the home. The certificate is valid in any county in this 87414
state during the year for which it is issued. 87415

(3) For each year thereafter, the county treasurer shall 87416
issue a tax bill stating the amount of tax due under section 87417
4503.06 of the Revised Code, as provided in division (D)(6) of 87418
that section. When the total tax due has been paid as required by 87419
division (F) of that section, the county treasurer shall issue a 87420
certificate evidencing registration that shall be valid in any 87421
county in this state during the year for which the certificate is 87422
issued. 87423

(4) The permanent decal issued under this division is valid 87424
during the period of ownership, except that when a manufactured 87425
home is relocated in another county the owner shall apply for a 87426
new registration as required by this section and section 4503.06 87427
of the Revised Code. 87428

(D)(1) All owners of manufactured or mobile homes subject to 87429
the manufactured home tax being relocated to or having situs in a 87430
county that has not adopted a permanent registration system, as 87431
provided in division (F) of this section, shall register the home 87432
within thirty days after the home is relocated or first acquires 87433
situs under section 4503.06 of the Revised Code and thereafter 87434
shall annually register the home with the county auditor of the 87435
county containing the taxing district in which the home has its 87436

situs. 87437

(2) Upon the annual registration, the county treasurer shall 87438
issue a tax bill stating the amount of annual manufactured home 87439
tax due under section 4503.06 of the Revised Code, as provided in 87440
division (D)(6) of that section. When a manufactured or mobile 87441
home is registered and when the tax for the current one-half year 87442
has been paid as required by division (F) of that section, the 87443
county treasurer shall issue a certificate evidencing registration 87444
and a decal. The certificate and decal are valid in any county in 87445
this state during the year for which they are issued. The decal 87446
shall be displayed on the street side of the home. 87447

(3) For the first annual registration in each county of 87448
situs, the county auditor shall require the owner or vendee to 87449
present an Ohio certificate of title, certified copy of the 87450
certificate of title, or memorandum certificate of title as such 87451
are required by law, and proof, as required by the county auditor, 87452
that the manufactured or mobile home has been previously 87453
registered, if such registration was required, that all taxes due 87454
and required to be paid under division (H)(1) of this section 87455
before a relocation notice may be issued have been paid, and that 87456
a relocation notice was obtained for the home if required by 87457
division (H) of this section. If the owner or vendee does not 87458
possess the Ohio certificate of title, certified copy of the 87459
certificate of title, or memorandum certificate of title at the 87460
time the owner or vendee first registers the home in a county, the 87461
county auditor shall register the home without presentation of the 87462
document, but the owner or vendee shall present the certificate of 87463
title, certified copy of the certificate of title, or memorandum 87464
certificate of title to the county auditor within fourteen days 87465
after the owner or vendee obtains possession of the document. When 87466
the county treasurer receives the tax payment, the county 87467
treasurer shall note by writing or by a stamp on the certificate 87468

of title, certified copy of the certificate of title, or 87469
memorandum certificate of title that the home has been registered 87470
for the current year and that the manufactured home taxes due, if 87471
any, have been paid for the preceding five years and for the 87472
current year. 87473

(4) For subsequent annual registrations, the auditor may 87474
require the owner or vendee in possession to present an Ohio 87475
certificate of title, certified copy of the certificate of title, 87476
or memorandum certificate of title to the county treasurer upon 87477
payment of the manufactured home tax that is due. 87478

(E)(1) Upon the application to transfer ownership of a 87479
manufactured or mobile home for which manufactured home taxes are 87480
paid pursuant to division (C) of section 4503.06 of the Revised 87481
Code the clerk of the court of common pleas shall not issue any 87482
certificate of title that does not contain or have attached both 87483
of the following: 87484

(a) An endorsement of the county treasurer stating that the 87485
home has been registered for each year of ownership and that all 87486
manufactured home taxes imposed pursuant to section 4503.06 of the 87487
Revised Code have been paid or that no tax is due; 87488

(b) An endorsement of the county auditor that the 87489
manufactured home transfer tax imposed pursuant to section 322.06 87490
of the Revised Code and any fees imposed under division (G) of 87491
section 319.54 of the Revised Code have been paid. 87492

(2) If all the taxes have not been paid, the clerk shall 87493
notify the vendee to contact the county treasurer of the county 87494
containing the taxing district in which the home has its situs at 87495
the time of the proposed transfer. The county treasurer shall then 87496
collect all the taxes that are due for the year of the transfer 87497
and all previous years not exceeding a total of five years. The 87498
county treasurer shall distribute that part of the collection owed 87499

to the county treasurer of other counties if the home had its 87500
situs in another county during a particular year when the unpaid 87501
tax became due and payable. The burden to prove the situs of the 87502
home in the years that the taxes were not paid is on the 87503
transferor of the home. Upon payment of the taxes, the county 87504
auditor shall remove all remaining taxes from the manufactured 87505
home tax list and the delinquent manufactured home tax list, and 87506
the county treasurer shall release all liens for such taxes. The 87507
clerk of courts shall issue a certificate of title, free and clear 87508
of all liens for manufactured home taxes, to the transferee of the 87509
home. 87510

(3) Once the transfer is complete and the certificate of 87511
title has been issued, the transferee shall register the 87512
manufactured or mobile home pursuant to division (C) or (D) of 87513
this section with the county auditor of the county containing the 87514
taxing district in which the home remains after the transfer or, 87515
if the home is relocated to another county, with the county 87516
auditor of the county to which the home is relocated. The 87517
transferee need not pay the annual tax for the year of acquisition 87518
if the original owner has already paid the annual tax for that 87519
year. 87520

(F) The county auditor may adopt a permanent registration 87521
system and issue a permanent decal with the first registration as 87522
prescribed by the tax commissioner. 87523

(G) When any manufactured or mobile home required to be 87524
registered by this section is not registered, the county auditor 87525
shall impose a penalty of one hundred dollars upon the owner and 87526
deposit the amount to the credit of the county real estate 87527
assessment fund to be used to pay the costs of administering this 87528
section and section 4503.06 of the Revised Code. If unpaid, the 87529
penalty shall constitute a lien on the home and shall be added by 87530
the county auditor to the manufactured home tax list for 87531

collection. 87532

(H)(1) Except as otherwise provided in this division, before 87533
moving a manufactured or mobile home on public roads from one 87534
address within this state to another address within or outside 87535
this state, the owner of the home shall obtain a relocation 87536
notice, as provided by this section, from the auditor of the 87537
county in which the home is located if the home is currently 87538
subject to taxation pursuant to section 4503.06 of the Revised 87539
Code. The auditor shall charge five dollars for the notice, and 87540
deposit the amount to the credit of the county real estate 87541
assessment fund to be used to pay the costs of administering this 87542
section and section 4503.06 of the Revised Code. The auditor shall 87543
not issue a relocation notice unless all taxes owed on the home 87544
under section 4503.06 of the Revised Code that were first charged 87545
to the home during the period of ownership of the owner seeking 87546
the relocation notice have been paid. If the home is being moved 87547
by a new owner of the home or by a party taking repossession of 87548
the home, the auditor shall not issue a relocation notice unless 87549
all of the taxes due for the preceding five years and for the 87550
current year have been paid. A relocation notice issued by a 87551
county auditor is valid until the last day of December of the year 87552
in which it was issued. 87553

If the home is being moved by a sheriff, police officer, 87554
constable, bailiff, or manufactured home park operator, as defined 87555
in section ~~3733.01~~ 4781.01 of the Revised Code, or any agent of 87556
any of these persons, for purposes of removal from a manufactured 87557
home park and storage, sale, or destruction under section 1923.14 87558
of the Revised Code, the auditor shall issue a relocation notice 87559
without requiring payment of any taxes owed on the home under 87560
section 4503.06 of the Revised Code. 87561

(2) If a manufactured or mobile home is not yet subject to 87562
taxation under section 4503.06 of the Revised Code, the owner of 87563

the home shall obtain a relocation notice from the dealer of the 87564
home. Within thirty days after the manufactured or mobile home is 87565
purchased, the dealer of the home shall provide the auditor of the 87566
county in which the home is to be located written notice of the 87567
name of the purchaser of the home, the registration number or 87568
vehicle identification number of the home, and the address or 87569
location to which the home is to be moved. The county auditor 87570
shall provide to each manufactured and mobile home dealer, without 87571
charge, a supply of relocation notices to be distributed to 87572
purchasers pursuant to this section. 87573

(3) The notice shall be in the form of a one-foot square 87574
yellow sign with the words "manufactured home relocation notice" 87575
printed prominently on it. The name of the owner of the home, the 87576
home's registration number or vehicle identification number, the 87577
county and the address or location to which the home is being 87578
moved, and the county in which the notice is issued shall also be 87579
entered on the notice. 87580

(4) The relocation notice must be attached to the rear of the 87581
home when the home is being moved on a public road. Except as 87582
provided in divisions (H)(1) and (5) of this section, no person 87583
shall drive a motor vehicle moving a manufactured or mobile home 87584
on a public road from one address to another address within this 87585
state unless a relocation notice is attached to the rear of the 87586
home. 87587

(5) If the county auditor determines that a manufactured or 87588
mobile home has been moved without a relocation notice as required 87589
under this division, the auditor shall impose a penalty of one 87590
hundred dollars upon the owner of the home and upon the person who 87591
moved the home and deposit the amount to the credit of the county 87592
real estate assessment fund to pay the costs of administering this 87593
section and section 4503.06 of the Revised Code. If the home was 87594
relocated from one county in this state to another county in this 87595

state and the county auditor of the county to which the home was 87596
relocated imposes the penalty, that county auditor, upon 87597
collection of the penalty, shall cause an amount equal to the 87598
penalty to be transmitted from the county real estate assessment 87599
fund to the county auditor of the county from which the home was 87600
relocated, who shall deposit the amount to the credit of the 87601
county real estate assessment fund. If the penalty on the owner is 87602
unpaid, the penalty shall constitute a lien on the home and the 87603
auditor shall add the penalty to the manufactured home tax list 87604
for collection. If the county auditor determines that a dealer 87605
that has sold a manufactured or mobile home has failed to timely 87606
provide the information required under this division, the auditor 87607
shall impose a penalty upon the dealer in the amount of one 87608
hundred dollars. The penalty shall be credited to the county real 87609
estate assessment fund and used to pay the costs of administering 87610
this section and section 4503.06 of the Revised Code. 87611

(I) Whoever violates division (H)(4) of this section is 87612
guilty of a minor misdemeanor. 87613

Sec. 4503.062. (A) Every operator of a manufactured home 87614
court, or manufactured home park, as defined in section ~~3733.01~~ 87615
4781.01 of the Revised Code, or when there is no operator, every 87616
owner of property used for such purposes on which three or more 87617
manufactured or mobile homes are located, shall keep a register of 87618
all manufactured and mobile homes that make use of the court, 87619
park, or property. The register shall contain all of the 87620
following: 87621

(1) The name of the owner and all inhabitants of each home; 87622

(2) The ages of all inhabitants of each home; 87623

(3) The permanent and temporary post office addresses of all 87624
inhabitants of each home; 87625

(4) The license number of each home;	87626
(5) The state issuing each such license;	87627
(6) The date of arrival and of departure of each home;	87628
(7) The make and model of each home, if known and if either	87629
of the following applies:	87630
(a) The home enters the court, park, or property on or after	87631
January 1, 2003.	87632
(b) Ownership of the home in the court or park, or on the	87633
property, is transferred on or after January 1, 2003.	87634
(B) The register shall be open to inspection by the county	87635
auditor, the county treasurer, agents of the auditor or treasurer,	87636
and all law enforcement agencies at all times.	87637
(C) Any person who fails to comply with this section shall be	87638
fined not less than twenty-five nor more than one hundred dollars.	87639
Sec. 4503.235. (A) If division (G) of section 4511.19 or	87640
division (B) (C) of section 4511.193 of the Revised Code requires a	87641
court, as part of the sentence of an offender who is convicted of	87642
or pleads guilty to a violation of division (A) of section 4511.19	87643
of the Revised Code or as a sanction for an offender who is	87644
convicted of or pleaded guilty to a violation of a municipal OVI	87645
ordinance, to order the immobilization of a vehicle for a	87646
specified period of time, notwithstanding the requirement, the	87647
court in its discretion may determine not to order the	87648
immobilization of the vehicle if both of the following apply:	87649
(1) Prior to the issuance of the order of immobilization, a	87650
family or household member of the offender files a motion with the	87651
court identifying the vehicle and requesting that the	87652
immobilization order not be issued on the ground that the family	87653
or household member is completely dependent on the vehicle for the	87654
necessities of life and that the immobilization of the vehicle	87655

would be an undue hardship to the family or household member. 87656

(2) The court determines that the family or household member 87657
who files the motion is completely dependent on the vehicle for 87658
the necessities of life and that the immobilization of the vehicle 87659
would be an undue hardship to the family or household member. 87660

(B) If a court pursuant to division (A) of this section 87661
determines not to order the immobilization of a vehicle that 87662
otherwise would be required pursuant to division (G) of section 87663
4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised 87664
Code, the court shall issue an order that waives the 87665
immobilization that otherwise would be required pursuant to either 87666
of those divisions. The immobilization waiver order shall be in 87667
effect for the period of time for which the immobilization of the 87668
vehicle otherwise would have been required under division (G) of 87669
section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the 87670
Revised Code if the immobilization waiver order had not been 87671
issued, subject to division (D) of this section. The 87672
immobilization waiver order shall specify the period of time for 87673
which it is in effect. The court shall provide a copy of an 87674
immobilization waiver order to the offender and to the family or 87675
household member of the offender who filed the motion requesting 87676
that the immobilization order not be issued and shall place a copy 87677
of the immobilization waiver order in the record in the case. The 87678
court shall impose an immobilization waiver fee in the amount of 87679
fifty dollars. The court shall determine whether the fee is to be 87680
paid by the offender or by the family or household member. The 87681
clerk of the court shall deposit all of the fees collected during 87682
a month on or before the twenty-third day of the following month 87683
into the county or municipal indigent drivers alcohol treatment 87684
fund under the control of that court, as created by the county or 87685
municipal corporation under division (F) of section 4511.191 of 87686
the Revised Code. 87687

(C) If a court pursuant to division (B) of this section 87688
issues an immobilization waiver order, the order shall identify 87689
the family or household member who requested the order and the 87690
vehicle to which the order applies, shall identify the family or 87691
household members who are permitted to operate the vehicle, and 87692
shall identify the offender and specify that the offender is not 87693
permitted to operate the vehicle. The immobilization waiver order 87694
shall require that the family or household member display on the 87695
vehicle to which the order applies restricted license plates that 87696
are issued under section 4503.231 of the Revised Code for the 87697
entire period for which the immobilization of the vehicle 87698
otherwise would have been required under division (G) of section 87699
4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code 87700
if the immobilization waiver order had not been issued. 87701

(D) A family or household member who is permitted to operate 87702
a vehicle under an immobilization waiver order issued under this 87703
section shall not permit the offender to operate the vehicle. If a 87704
family or household member who is permitted to operate a vehicle 87705
under an immobilization waiver order issued under this section 87706
permits the offender to operate the vehicle, both of the following 87707
apply: 87708

(1) The court that issued the immobilization waiver order 87709
shall terminate that order and shall issue an immobilization order 87710
in accordance with section 4503.233 of the Revised Code that 87711
applies to the vehicle, and the immobilization order shall be in 87712
effect for the remaining period of time for which the 87713
immobilization of the vehicle otherwise would have been required 87714
under division (G) of section 4511.19 or division ~~(B)~~(C) of 87715
section 4511.193 of the Revised Code if the immobilization waiver 87716
order had not been issued. 87717

(2) The conduct of the family or household member in 87718
permitting the offender to operate the vehicle is a violation of 87719

section 4511.203 of the Revised Code. 87720

(E) No offender shall operate a motor vehicle subject to an 87721
immobilization waiver order. Whoever violates this division is 87722
guilty of operating a motor vehicle in violation of an 87723
immobilization waiver, a misdemeanor of the first degree. 87724

(F) "Family or household member" has the same meaning as in 87725
section 2919.25 of the Revised Code, except that the person must 87726
be currently residing with the offender. 87727

Sec. 4503.70. The owner or lessee of any passenger car, 87728
noncommercial motor vehicle, recreational vehicle, or other 87729
vehicle of a class approved by the registrar of motor vehicles who 87730
is a member in good standing of the grand lodge of free and 87731
accepted masons of Ohio may apply to the registrar for the 87732
registration of the vehicle and issuance of freemason license 87733
plates. The application for freemason license plates may be 87734
combined with a request for a special reserved license plate under 87735
section 4503.40 or 4503.42 of the Revised Code. Upon receipt of 87736
the completed application, presentation by the applicant of 87737
satisfactory evidence showing that the applicant is a member in 87738
good standing of the grand lodge of free and accepted masons of 87739
Ohio, and compliance by the applicant with this section, the 87740
registrar shall issue to the applicant the appropriate vehicle 87741
registration and a set of freemason license plates with a 87742
validation sticker or a validation sticker alone when required by 87743
section 4503.191 of the Revised Code. 87744

In addition to the letters and numbers ordinarily inscribed 87745
thereon, freemason license plates shall be inscribed with 87746
identifying words and a symbol or logo designed by the grand lodge 87747
of free and accepted masons of Ohio and approved by the registrar. 87748
Freemason license plates shall bear county identification stickers 87749
that identify the county of registration by name or number. 87750

Freemason license plates and validation stickers shall be 87751
issued upon payment of the regular license fee required by section 87752
4503.04 of the Revised Code, payment of any local motor vehicle 87753
license tax levied under Chapter 4504. of the Revised Code, 87754
payment of an additional fee of ten dollars, and compliance with 87755
all other applicable laws relating to the registration of motor 87756
vehicles. If the application for freemason license plates is 87757
combined with a request for a special reserved license plate under 87758
section 4503.40 or 4503.42 of the Revised Code, the license plates 87759
and validation sticker shall be issued upon payment of the fees 87760
and taxes contained in this section and the additional fee 87761
prescribed under section 4503.40 or 4503.42 of the Revised Code. 87762
The additional fee of ten dollars shall be for the purpose of 87763
compensating the bureau of motor vehicles for additional services 87764
required in the issuing of freemason license plates, and shall be 87765
transmitted by the registrar to the treasurer of state for deposit 87766
into the state treasury to the credit of the state bureau of motor 87767
vehicles fund created by section 4501.25 of the Revised Code. 87768

Sec. 4503.93. (A) The owner or lessee of any passenger car, 87769
noncommercial motor vehicle, recreational vehicle, or other 87770
vehicle of a class approved by the registrar of motor vehicles may 87771
apply to the registrar for the registration of the vehicle and 87772
issuance of Ohio "volunteer" license plates. The application for 87773
Ohio "volunteer" license plates may be combined with a request for 87774
a special reserved license plate under section 4503.40 or 4503.42 87775
of the Revised Code. Upon receipt of the completed application and 87776
compliance with divisions (B) and (C) of this section, the 87777
registrar shall issue to the applicant the appropriate vehicle 87778
registration and a set of Ohio "volunteer" license plates with a 87779
validation sticker or a validation sticker alone when required by 87780
section 4503.191 of the Revised Code. 87781

In addition to the letters and numbers ordinarily inscribed 87782

on license plates, Ohio "volunteer" license plates shall be 87783
inscribed with words and markings designed by the Ohio ~~community~~ 87784
commission on service ~~council~~ and volunteerism created by section 87785
121.40 of the Revised Code and approved by the registrar. Ohio 87786
"volunteer" license plates shall bear county identification 87787
stickers that identify the county of registration by name or 87788
number. 87789

(B) Ohio "volunteer" license plates and a validation sticker, 87790
or a validation sticker alone, shall be issued upon receipt of a 87791
contribution as provided in division (C) of this section and upon 87792
payment of the regular license tax prescribed in section 4503.04 87793
of the Revised Code, any applicable motor vehicle tax levied under 87794
Chapter 4504. of the Revised Code, any applicable additional fee 87795
prescribed by section 4503.40 or 4503.42 of the Revised Code, a 87796
bureau of motor vehicles fee of ten dollars, and compliance with 87797
all other applicable laws relating to the registration of motor 87798
vehicles. 87799

(C)(1) For each application for registration and registration 87800
renewal received under this section, the registrar shall collect a 87801
contribution of fifteen dollars. The registrar shall transmit this 87802
contribution to the treasurer of state for deposit in the Ohio 87803
~~community~~ commission on service ~~council~~ and volunteerism gifts and 87804
donations fund created by section 121.403 of the Revised Code. The 87805
~~council~~ commission shall use all such contributions for the 87806
purposes described in divisions (B)(2) and (3) of that section. 87807

(2) The registrar shall deposit the bureau of motor vehicles 87808
fee of ten dollars specified in division (B) of this section, 87809
which is for the purpose of compensating the bureau for the 87810
additional services required in issuing Ohio "volunteer" license 87811
plates, in the state bureau of motor vehicles fund created in 87812
section 4501.25 of the Revised Code. 87813

Sec. 4504.02. For the purpose of paying the costs of 87814
enforcing and administering the tax provided for in this section; 87815
and for planning, constructing, improving, maintaining, and 87816
repairing public roads, highways, and streets; maintaining and 87817
repairing bridges and viaducts; paying the county's portion of the 87818
costs and expenses of cooperating with the department of 87819
transportation in the planning, improvement, and construction of 87820
state highways; paying the county's portion of the compensation, 87821
damages, cost, and expenses of planning, constructing, 87822
reconstructing, improving, maintaining, and repairing roads; 87823
paying any costs apportioned to the county under section 4907.47 87824
of the Revised Code; paying debt service charges on notes or bonds 87825
of the county issued for such purposes; paying all or part of the 87826
costs and expenses of municipal corporations in planning, 87827
constructing, reconstructing, improving, maintaining, and 87828
repairing highways, roads, and streets designated as necessary or 87829
conducive to the orderly and efficient flow of traffic within and 87830
through the county pursuant to section 4504.03 of the Revised 87831
Code; purchasing, erecting, and maintaining street and traffic 87832
signs and markers; purchasing, erecting, and maintaining traffic 87833
lights and signals; and to supplement revenue already available 87834
for such purposes, any county by resolution adopted by its board 87835
of county commissioners may levy an annual license tax, in 87836
addition to the tax levied by sections 4503.02, 4503.07, and 87837
4503.18 of the Revised Code, upon the operation of motor vehicles 87838
on the public roads or highways. Such tax shall be at the rate of 87839
five dollars per motor vehicle on all motor vehicles the district 87840
of registration of which, as defined in section 4503.10 of the 87841
Revised Code, is located in the county levying the tax and shall 87842
be in addition to the taxes at the rates specified in sections 87843
4503.04 and 4503.16 of the Revised Code, subject to reductions in 87844
the manner provided in section 4503.11 of the Revised Code and the 87845

exemptions provided in sections 4503.16, 4503.17, 4503.171, 87846
4503.173, 4503.41, 4503.43, and 4503.46 of the Revised Code. 87847

Prior to the adoption of any resolution under this section, 87848
the board of county commissioners shall conduct two public 87849
hearings thereon, the second hearing to be not less than three nor 87850
more than ten days after the first. Notice of the date, time, and 87851
place of such hearings shall be given by publication in a 87852
newspaper of general circulation in the county or as provided in 87853
section 7.16 of the Revised Code, once a week on the same day of 87854
the week for two consecutive weeks, the second publication being 87855
not less than ten nor more than thirty days prior to the first 87856
hearing. 87857

No resolution under this section shall become effective 87858
sooner than thirty days following its adoption, and such 87859
resolution is subject to a referendum as provided in sections 87860
305.31 to 305.41 of the Revised Code, unless such resolution is 87861
adopted as an emergency measure necessary for the immediate 87862
preservation of the public peace, health, or safety, in which case 87863
it shall go into immediate effect. Such emergency measure must 87864
receive an affirmative vote of all of the members of the board of 87865
county commissioners, and shall state the reasons for such 87866
necessity. A resolution may direct the board of elections to 87867
submit the question of levying the tax to the electors of the 87868
county at the next primary or general election in the county 87869
occurring not less than seventy-five days after such resolution is 87870
certified to the board; no such resolution shall go into effect 87871
unless approved by a majority of those voting upon it. 87872

Sec. 4504.021. The question of repeal of a county permissive 87873
tax adopted as an emergency measure pursuant to section 4504.02, 87874
4504.15, or 4504.16 of the Revised Code may be initiated by filing 87875
with the board of elections of the county not less than ninety 87876

days before the general election in any year a petition requesting 87877
that an election be held on such question. Such petition shall be 87878
signed by qualified electors residing in the county equal in 87879
number to ten per cent of those voting for governor at the most 87880
recent gubernatorial election. 87881

After determination by it that such petition is valid, the 87882
board of elections shall submit the question to the electors of 87883
the county at the next general election. The election shall be 87884
conducted, canvassed, and certified in the same manner as regular 87885
elections for county offices in the county. Notice of the election 87886
shall be published in a newspaper of general circulation in the 87887
district, or as provided in section 7.16 of the Revised Code, once 87888
a week for two consecutive weeks prior to the election ~~and, if.~~ If 87889
the board of elections operates and maintains a web site, notice 87890
of the election also shall be posted on that web site for thirty 87891
days prior to the election. The notice shall state the purpose, 87892
time, and place of the election. The form of the ballot cast at 87893
such election shall be prescribed by the secretary of state. The 87894
question covered by such petition shall be submitted as a separate 87895
proposition, but it may be printed on the same ballot with any 87896
other proposition submitted at the same election other than the 87897
election of officers. If a majority of the qualified electors 87898
voting on the question of repeal approve the repeal, the result of 87899
the election shall be certified immediately after the canvass by 87900
the board of elections to the county commissioners, who shall 87901
thereupon, after the current year, cease to levy the tax. 87902

Sec. 4504.15. For the purpose of paying the costs of 87903
enforcing and administering the tax provided for in this section; 87904
for the various purposes stated in section 4504.02 of the Revised 87905
Code; and to supplement revenue already available for those 87906
purposes, any county may, by resolution adopted by its board of 87907
county commissioners, levy an annual license tax, that shall be in 87908

addition to the tax levied by sections 4503.02, 4503.07, and 87909
4503.18 of the Revised Code, upon the operation of motor vehicles 87910
upon the public roads and highways. The tax shall be at the rate 87911
of five dollars per motor vehicle on all motor vehicles the 87912
district of registration of which, as defined in section 4503.10 87913
of the Revised Code, is located in the county levying the tax but 87914
is not located within any municipal corporation levying the tax 87915
authorized by section 4504.17 of the Revised Code, and shall be in 87916
addition to the taxes at the rates specified in sections 4503.04 87917
and 4503.16 of the Revised Code, subject to reductions in the 87918
manner provided in section 4503.11 of the Revised Code and the 87919
exemptions provided in sections 4503.16, 4503.17, 4503.171, 87920
4503.41, and 4503.43 of the Revised Code. 87921

Prior to the adoption of any resolution under this section, 87922
the board of county commissioners shall conduct two public 87923
hearings thereon, the second hearing to be not less than three nor 87924
more than ten days after the first. Notice of the date, time, and 87925
place of such hearings shall be given by publication in a 87926
newspaper of general circulation in the county, or as provided in 87927
section 7.16 of the Revised Code, once a week for two consecutive 87928
weeks, ~~the~~. The second publication ~~being~~ shall be not less than 87929
ten nor more than thirty days prior to the first hearing. 87930

No resolution under this section shall become effective 87931
sooner than thirty days following its adoption, and such 87932
resolution is subject to a referendum as provided in sections 87933
305.31 to 305.41 of the Revised Code, unless the resolution is 87934
adopted as an emergency measure necessary for the immediate 87935
preservation of the public peace, health, or safety, in which case 87936
it shall go into immediate effect. The emergency measure must 87937
receive an affirmative vote of all of the members of the board of 87938
county commissioners, and shall state the reasons for the 87939
necessity. A resolution may direct the board of elections to 87940

submit the question of levying the tax to the electors of the 87941
county at the next primary or general election occurring not less 87942
than ninety days after the resolution is certified to the board; 87943
no such resolution shall go into effect unless approved by a 87944
majority of those voting upon it. A county is not required to 87945
enact the tax authorized by section 4504.02 of the Revised Code in 87946
order to levy the tax authorized by this section, but no county 87947
may have in effect the tax authorized by this section if it 87948
repeals the tax authorized by section 4504.02 of the Revised Code 87949
after April 1, 1987. 87950

Sec. 4504.16. For the purpose of paying the costs of 87951
enforcing and administering the tax provided for in this section; 87952
for the various purposes stated in section 4504.02 of the Revised 87953
Code; and to supplement revenue already available for those 87954
purposes, any county that currently levies the tax authorized by 87955
section 4504.15 of the Revised Code may, by resolution adopted by 87956
its board of county commissioners, levy an annual license tax, 87957
that shall be in addition to the tax levied by that section and by 87958
sections 4503.02, 4503.07, and 4503.18 of the Revised Code, upon 87959
the operation of motor vehicles upon the public roads and 87960
highways. The tax shall be at the rate of five dollars per motor 87961
vehicle on all motor vehicles the district of registration of 87962
which, as defined in section 4503.10 of the Revised Code, is 87963
located in the county levying the tax but is not located within 87964
any municipal corporation levying the tax authorized by section 87965
4504.171 of the Revised Code, and shall be in addition to the 87966
taxes at the rates specified in sections 4503.04 and 4503.16 of 87967
the Revised Code, subject to reductions in the manner provided in 87968
section 4503.11 of the Revised Code and the exemptions provided in 87969
sections 4503.16, 4503.17, 4503.171, 4503.41, and 4503.43 of the 87970
Revised Code. 87971

Prior to the adoption of any resolution under this section, 87972

the board of county commissioners shall conduct two public 87973
hearings thereon, the second hearing to be not less than three nor 87974
more than ten days after the first. Notice of the date, time, and 87975
place of such hearings shall be given by publication in a 87976
newspaper of general circulation in the county, or as provided in 87977
section 7.16 of the Revised Code, once a week for two consecutive 87978
weeks, ~~the~~. The second publication being shall be not less than 87979
ten nor more than thirty days prior to the first hearing. 87980

No resolution under this section shall become effective 87981
sooner than thirty days following its adoption, and such 87982
resolution is subject to a referendum as provided in sections 87983
305.31 to 305.41 of the Revised Code, unless the resolution is 87984
adopted as an emergency measure necessary for the immediate 87985
preservation of the public peace, health, or safety, in which case 87986
it shall go into immediate effect. The emergency measure must 87987
receive an affirmative vote of all of the members of the board of 87988
county commissioners, and shall state the reasons for the 87989
necessity. A resolution may direct the board of elections to 87990
submit the question of levying the tax to the electors of the 87991
county at the next primary or general election occurring not less 87992
than ninety days after the resolution is certified to the board; 87993
no such resolution shall go into effect unless approved by a 87994
majority of those voting upon it. 87995

Nothing in this section or in section 4504.15 of the Revised 87996
Code shall be interpreted as preventing a county from levying the 87997
county motor vehicle license taxes authorized by such sections in 87998
a single resolution. 87999

Sec. 4504.18. For the purpose of paying the costs and 88000
expenses of enforcing and administering the tax provided for in 88001
this section; for the construction, reconstruction, improvement, 88002
maintenance, and repair of township roads, bridges, and culverts; 88003

for purchasing, erecting, and maintaining traffic signs, markers, 88004
lights, and signals; for purchasing road machinery and equipment, 88005
and planning, constructing, and maintaining suitable buildings to 88006
house such equipment; for paying any costs apportioned to the 88007
township under section 4907.47 of the Revised Code; and to 88008
supplement revenue already available for such purposes, the board 88009
of township trustees may levy an annual license tax, in addition 88010
to the tax levied by sections 4503.02, 4503.07, and 4503.18 of the 88011
Revised Code, upon the operation of motor vehicles on the public 88012
roads and highways in the unincorporated territory of the 88013
township. The tax shall be at the rate of five dollars per motor 88014
vehicle on all motor vehicles the owners of which reside in the 88015
unincorporated area of the township and shall be in addition to 88016
the taxes at the rates specified in sections 4503.04 and 4503.16 88017
of the Revised Code, subject to reductions in the manner provided 88018
in section 4503.11 of the Revised Code and the exemptions provided 88019
in sections 4503.16, 4503.17, 4503.171, 4503.41, and 4503.43 of 88020
the Revised Code. 88021

Prior to the adoption of any resolution under this section, 88022
the board of township trustees shall conduct two public hearings 88023
thereon, the second hearing to be not less than three nor more 88024
than ten days after the first. Notice of the date, time, and place 88025
of such hearings shall be given by publication in a newspaper of 88026
general circulation in the township or as provided in section 7.16 88027
of the Revised Code, once a week on the same day of the week for 88028
two consecutive weeks, the second publication being not less than 88029
ten nor more than thirty days prior to the first hearing. 88030

No resolution under this section shall become effective 88031
sooner than thirty days following its adoption, and such 88032
resolution is subject to a referendum in the same manner, except 88033
as to the form of the petition, as provided in division (H) of 88034
section 519.12 of the Revised Code for a proposed amendment to a 88035

township zoning resolution. In addition, a petition under this 88036
section shall be governed by the rules specified in section 88037
3501.38 of the Revised Code. No resolution levying a tax under 88038
this section for which a referendum vote has been requested shall 88039
go into effect unless approved by a majority of those voting upon 88040
it. 88041

A township license tax levied under this section shall 88042
continue in effect until repealed. 88043

Sec. 4505.181. (A) Notwithstanding ~~divisions (A)(2), (5), and~~ 88044
~~(6) of~~ section 4505.18 of the Revised Code, a motor vehicle dealer 88045
or person acting on behalf of a motor vehicle dealer may display, 88046
offer for sale, or sell a used motor vehicle and a manufactured 88047
housing dealer or person acting on behalf of a manufactured 88048
housing dealer may display, offer for sale, or sell a used 88049
manufactured home or used mobile home without having first 88050
obtained a certificate of title for the vehicle in the name of the 88051
dealer ~~as required by this chapter if the dealer or person acting~~ 88052
~~on behalf of the dealer complies with divisions (A)(1)(a) and (2)~~ 88053
~~of this section, or divisions (A)(1)(b) and (2) of~~ by complying 88054
with this section, as follows: 88055

(1)(a) The dealer or person acting on behalf of the dealer 88056
shall possess a bill of sale for each used motor vehicle, used 88057
manufactured home, and used mobile home proposed to be displayed, 88058
offered for sale, or sold under this section or a properly 88059
executed power of attorney or other related documents from the 88060
prior owner of the motor vehicle, manufactured home, or mobile 88061
home giving the dealer or person acting on behalf of the dealer 88062
authority to have a certificate of title to the motor vehicle, 88063
manufactured home, or mobile home issued in the name of the 88064
dealer, and shall retain copies of all such documents in the 88065
dealer's or person's files until such time as a certificate of 88066

title in the dealer's name is issued for each such motor vehicle, 88067
manufactured home, or mobile home by the clerk of the court of 88068
common pleas. Such documents shall be available for inspection by 88069
the bureau of motor vehicles and the manufactured homes commission 88070
during normal business hours. 88071

~~(2) If the dealer has been licensed as a motor vehicle dealer~~ 88072
~~or manufactured housing dealer for less than the three year period~~ 88073
~~prior to the date on which the dealer or person acting on behalf~~ 88074
~~of the dealer displays, offers for sale, or sells the used motor~~ 88075
~~vehicle for which the dealer has not obtained a certificate of~~ 88076
~~title in the name of the dealer, or if the attorney general has~~ 88077
~~paid a retail purchaser of the dealer or a secured party under~~ 88078
~~division ~~(C)~~(D), (E), or (G) of this section within three years~~ 88079
~~prior to such date, the dealer ~~posts~~ shall post with the attorney~~ 88080
~~general's office in favor of this state a bond of a surety company~~ 88081
~~authorized to do business in this state, in an amount of not less~~ 88082
~~than twenty-five thousand dollars, to be used solely for the~~ 88083
~~purpose of compensating retail purchasers of motor vehicles,~~ 88084
~~manufactured homes, or mobile homes who suffer damages due to~~ 88085
~~failure of the dealer or person acting on behalf of the dealer to~~ 88086
~~comply with this section. Failure to post a bond constitutes a~~ 88087
~~deceptive act or practice in connection with a consumer~~ 88088
~~transaction and is a violation of section 1345.02 of the Revised~~ 88089
~~Code. The dealer's surety shall notify the registrar and attorney~~ 88090
~~general when a bond of a motor vehicle dealer is canceled and~~ 88091
~~shall notify the manufactured homes commission and the attorney~~ 88092
~~general when a bond of a manufactured housing dealer is canceled.~~ 88093
~~Such notification of cancellation shall include the effective date~~ 88094
~~of and reason for cancellation.~~ 88095

~~(b) If the dealer has been licensed as a motor vehicle dealer~~ 88096
~~or manufactured housing dealer for longer than the three year~~ 88097
~~period prior to the date on which the dealer or person acting on~~ 88098

~~behalf of the dealer displays, offers for sale, or sells the used 88099
motor vehicle, used manufactured home, or used mobile home for 88100
which the dealer has not obtained a certificate of title in the 88101
name of the dealer and the attorney general has not paid a retail 88102
purchaser of the dealer under division (C) of this section within 88103
three years prior to such date, the dealer pays one hundred fifty 88104
dollars to the attorney general for deposit into the title defect 88105
recision fund created by section 1345.52 of the Revised Code. 88106~~

~~(2) The dealer or person acting on behalf of the dealer 88107
possesses a bill of sale for each motor vehicle, used manufactured 88108
home, and used mobile home proposed to be displayed, offered for 88109
sale, or sold under this section and a properly executed power of 88110
attorney or other related documents from the prior owner of the 88111
motor vehicle, manufactured home, or mobile home giving the dealer 88112
or person acting on behalf of the dealer authority to have a 88113
certificate of title to the motor vehicle, manufactured home, or 88114
mobile home issued in the name of the dealer, and retains copies 88115
of all such documents in the dealer's or person's files until such 88116
time as a certificate of title in the dealer's name is issued for 88117
each such motor vehicle, manufactured home, or mobile home by the 88118
clerk of the court of common pleas. Such documents shall be 88119
available for inspection by the bureau of motor vehicles and the 88120
manufactured homes commission during normal business hours. 88121~~

~~(B) If a retail purchaser purchases a used motor vehicle, 88122
used manufactured home, or used mobile home for which the dealer, 88123
pursuant to and in accordance with division (A) of this section, 88124
does not have a certificate of title issued in the name of the 88125
dealer at the time of the sale, the retail purchaser has an 88126
unconditional right to demand the dealer rescind the transaction 88127
and the dealer has an obligation to refund to the retail purchaser 88128
the full purchase price of the vehicle, if one of the following 88129
applies: 88130~~

(1) The dealer fails, on or before the fortieth day following the date of the sale, to obtain a title in the name of the retail purchaser. 88131
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(2) The title for the vehicle indicates that it is a rebuilt salvage vehicle, and the fact that it is a rebuilt salvage vehicle was not disclosed to the retail purchaser in writing prior to the execution of the purchase agreement. 88134
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(3) The title for the vehicle indicates that the dealer has made an inaccurate odometer disclosure to the retail purchaser. 88138
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(4) The title for the vehicle indicates that it is a "buyback" vehicle as defined in section 1345.71 of the Revised Code, and the fact that it is a "buyback" vehicle was not disclosed to the retail purchaser in the written purchase agreement. 88140
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(5) The motor vehicle is a used manufactured home or used mobile home, as defined by section ~~5739.021~~ 4781.01 of the Revised Code, that has been repossessed under Chapter 1309. or 1317. of the Revised Code, but a certificate of title for the repossessed home has not yet been transferred by the repossessing party to the dealer on the date the retail purchaser purchases the used manufactured home or used mobile home from the dealer, and the dealer fails to obtain a certificate of title on or before the fortieth day after the dealer obtains the certificate of title for the home from the repossessing party or the date on which an occupancy permit for the home is delivered to the purchaser by the appropriate legal authority, whichever occurs later. 88145
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(C)(1) If ~~any of the circumstances~~ circumstance described in ~~divisions~~ division (B)(1) ~~to (4)~~ of this section applies, a retail purchaser or the retail purchaser's representative shall ~~notify~~ provide the dealer and ~~afford the dealer the opportunity to comply with the dealer's obligation to refund the full purchase price~~ 88157
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notice of the motor vehicle request for rescision. Such 88162
notification shall occur not later than sixty days from the date 88163
the motor vehicle is titled in the name of the retail purchaser. 88164
The dealer shall have the opportunity to comply with the dealer's 88165
obligation to refund the full purchase price of the motor vehicle. 88166
Reimbursement shall be only in such a manner as to reimburse the 88167
retail purchaser any money the retail purchaser actually paid and, 88168
in the case of a lender of the retail purchaser, the amount paid 88169
by the lender to purchase the contract or finance the sale of the 88170
vehicle. If a vehicle was taken in trade as a down payment, the 88171
dealer shall return the vehicle to the consumer, unless the dealer 88172
remitted payment to a third party to satisfy any security 88173
interest. If the dealer remitted payment, the dealer shall 88174
reimburse the purchaser the value of the vehicle, as evidenced by 88175
the bill of sale. 88176

(2) If any of the circumstances described in divisions 88177
(B)(2), (3), or (4) of this section apply, a retail purchaser or 88178
the retail purchaser's representative shall provide notice to the 88179
dealer of a request for rescision. Such notification shall occur 88180
not later than one hundred eighty days from the date the vehicle 88181
is titled in the name of the retail purchaser. Upon timely 88182
notification, the dealer shall have the opportunity to comply with 88183
the dealer's obligation to refund the full purchase price of the 88184
motor vehicle. Reimbursement shall be only in such a manner as to 88185
reimburse the retail purchaser any money the retail purchaser 88186
actually paid and, in the case of a lender of the retail 88187
purchaser, the amount paid by the lender to purchase the contract 88188
or finance the sale of the vehicle. If a vehicle was taken in 88189
trade as a down payment, the dealer shall return the vehicle to 88190
the consumer, unless the dealer remitted payment to a third party 88191
to satisfy any security interest. If the dealer remitted payment, 88192
the dealer shall reimburse the purchaser the value of the vehicle, 88193
as evidenced by the bill of sale. 88194

(3) If any of the circumstances described in division (B)(5) of this section apply, a retail purchaser or the retail purchaser's representative shall notify the dealer and afford the dealer the opportunity to comply with the dealer's obligation to rescind the manufactured home or mobile home transaction. 88195
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(4) If the retail purchaser does not deliver notice to the dealer within the applicable time period specified in division (C)(1), (2), or (3) of this section, the retail purchaser shall not be entitled to any recovery or have any cause of action under this section. 88200
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(5) Nothing in ~~this~~ division (C) of this section shall be construed as prohibiting the dealer and the retail purchaser or their representatives from negotiating a compromise resolution that is satisfactory to both parties. 88205
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~~(C)~~(D) If a retail purchaser notifies a dealer of one or more of the circumstances listed in division (B) of this section within the applicable time period specified in division (C)(1), (2), or (3) of this section and the dealer fails to ~~refund to~~ comply with the retail purchaser the full purchase price requirements for rescision as prescribed in division (C) of the vehicle this section or reach a satisfactory compromise with the retail purchaser within ~~three~~ seven business days of presentation of the retail purchaser's rescision claim, the retail purchaser may apply to the attorney general for payment from the fund of the full purchase price to the retail purchaser. 88209
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~~(D)~~(E)(1) Upon application by a retail purchaser for payment from the fund, if the attorney general is satisfied that one or more of the circumstances contained in divisions (B)(1) to ~~(4)~~(5) of this section exist, and notification has been given within the applicable time period specified in division (C)(1), (2), or (3) of this section, the attorney general shall cause at maximum the full purchase price of the vehicle, manufactured home, or mobile 88220
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home plus the cost of any additional temporary license placards to 88227
be paid to the retail purchaser from the fund after. The attorney 88228
general may require delivery of the vehicle, manufactured home, or 88229
mobile home to the attorney general prior to reimbursement from 88230
the fund. Reimbursement shall be only in such a manner as to do 88231
either of the following: 88232

(a) Reimburse the retail purchaser any money the retail 88233
purchaser actually paid and, in the case of a lender of the retail 88234
purchaser, the amount paid by the lender to purchase the contract 88235
or finance the sale of the vehicle; 88236

(b) If the retail purchaser wishes to retain the vehicle, the 88237
attorney general, in the attorney general's sole discretion, may 88238
pay a lienholder of record or other holder of a secured interest 88239
in such manner that title can be transferred to the retail 88240
purchaser free of encumbrances, other than a security interest 88241
granted by the retail purchaser at the time of vehicle purchase. 88242

(2) The attorney general, in the attorney general's sole 88243
discretion, also may cause the cost of additional temporary 88244
license placards to be paid from the fund. The 88245

(F) The attorney general may sell or otherwise dispose of any 88246
used motor vehicle, manufactured home, or mobile home that is 88247
delivered to the attorney general under this section, and may 88248
collect the proceeds of any bond posted under division (A) of this 88249
section by a dealer who has failed to comply with division ~~(C)~~(D) 88250
of this section. The proceeds from all such sales and collections 88251
shall be deposited into the title defect recision fund for use as 88252
specified in section 1345.52 of the Revised Code. 88253

~~(E) Failure by a dealer to comply with division (A) or (B) of~~ 88254
~~this section constitutes a deceptive act or practice in connection~~ 88255
~~with a consumer transaction, and is a violation of section 1345.02~~ 88256
~~of the Revised Code.~~ 88257

~~(F)(G)~~ If a dealer fails to submit payment of a secured interest on a trade-in vehicle as agreed to by the dealer and retail purchaser and none of the circumstances in divisions (B)(1) to (5) apply, the retail purchaser may apply to the attorney general for payment to the secured creditor from the fund. The attorney general shall demand immediate payment from the dealer and if payment has not been made or is not immediately forthcoming, the attorney general may cause an amount equal to that which the dealer agreed to pay to the secured creditor to be paid from the fund, along with any additional interest and late fees resulting from the dealer's failure to pay the secured creditor in a timely manner.

(H) The remedy provided in this section to retail purchasers is in addition to any remedies otherwise available to the retail purchaser for the same conduct of the dealer or person acting on behalf of the dealer under federal law or the laws of this state or a political subdivision of this state.

~~(G)~~ All motor vehicle dealers licensed under Chapter 4517. of the Revised Code and manufactured housing dealers licensed under Chapter 4781. of the Revised Code shall pay to the attorney general for deposit into (I) If, at any time during any calendar year, the balance in the title defect recision fund the amount described in division (A)(1)(b) of this section beginning with the ealendar year during which this section becomes effective and each year subsequent to that year until the balance in the fund is not less than three hundred thousand dollars. All such dealers also shall pay to, the attorney general for deposit into the fund that amount during any year and subsequent years during which the balance in the fund is less than three hundred thousand dollars may assess all motor vehicle dealers licensed under Chapter 4517. of the Revised Code and all manufactured housing dealers licensed under Chapter 4781. of the Revised Code one hundred fifty dollars

for deposit into the title defect rescission fund until the balance 88290
in the fund reaches three hundred thousand dollars. A notice of 88291
assessment shall be sent to each dealer at its licensed location. 88292

If a motor vehicle dealer or manufactured housing dealer 88293
fails to comply with this division, the attorney general may bring 88294
a civil action in a court of competent jurisdiction to collect the 88295
amount the dealer failed to pay to the attorney general for 88296
deposit into the fund. 88297

(J) Nothing in this section shall be construed as providing 88298
for payment of attorney fees to the retail purchaser. 88299

(K) As used in this section: 88300

(1) "Full purchase price" means the contract price, including 88301
charges for dealer installed options and accessories, all finance, 88302
credit insurance, and service contract charges incurred by the 88303
retail purchaser, all sales tax, license and registration fees, 88304
and the amount of any negative equity that was not already paid by 88305
the dealer to a third party to satisfy a lien, as reflected in the 88306
contract. 88307

(2) "Retail purchaser" means a person, other than a motor 88308
vehicle dealer or a manufactured housing dealer, who in good faith 88309
purchases a used motor vehicle for purposes other than resale. 88310

Sec. 4506.071. On receipt of a notice pursuant to section 88311
3123.54 of the Revised Code, the registrar of motor vehicles shall 88312
comply with sections ~~3123.52~~ 3123.53 to ~~3123.614~~ 3123.60 of the 88313
Revised Code and any applicable rules adopted under section 88314
3123.63 of the Revised Code with respect to a commercial driver's 88315
license or commercial driver's temporary instruction permit issued 88316
pursuant to this chapter. 88317

Sec. 4507.111. On receipt of a notice pursuant to section 88318
3123.54 of the Revised Code, the registrar of motor vehicles shall 88319

comply with sections ~~3123.52~~ 3123.53 to ~~3123.614~~ 3123.60 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to any driver's or commercial license or permit, motorcycle operator's license or endorsement, or temporary instruction permit or commercial driver's temporary instruction permit issued by this state that is the subject of the notice.

Sec. 4507.164. (A) Except as provided in divisions (C) to (E) of this section, when the license of any person is suspended pursuant to any provision of the Revised Code other than division (G) of section 4511.19 of the Revised Code and other than section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, the trial judge may impound the identification license plates of any motor vehicle registered in the name of the person.

(B)(1) When the license of any person is suspended pursuant to division (G)(1)(a) of section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a municipal OVI offense when the suspension is equivalent in length to the suspension under division (G) of section 4511.19 of the Revised Code that is specified in this division, the trial judge of the court of record or the mayor of the mayor's court that suspended the license may impound the identification license plates of any motor vehicle registered in the name of the person.

(2) When the license of any person is suspended pursuant to division (G)(1)(b) of section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a municipal OVI offense when the suspension is equivalent in length to the suspension under division (G) of section 4511.19 of the Revised Code that is specified in this division, the trial judge of the court of record that suspended the license shall order the impoundment of the identification license plates of the motor

vehicle the offender was operating at the time of the offense and 88351
the immobilization of that vehicle in accordance with section 88352
4503.233 and division (G)(1)(b) of section 4511.19 or division 88353
~~(B)~~(C)(2)(a) of section 4511.193 of the Revised Code and may 88354
impound the identification license plates of any other motor 88355
vehicle registered in the name of the person whose license is 88356
suspended. 88357

(3) When the license of any person is suspended pursuant to 88358
division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised 88359
Code, or pursuant to section 4510.07 of the Revised Code for a 88360
municipal OVI offense when the suspension is equivalent in length 88361
to the suspension under division (G) of section 4511.19 of the 88362
Revised Code that is specified in this division, the trial judge 88363
of the court of record that suspended the license shall order the 88364
criminal forfeiture to the state of the motor vehicle the offender 88365
was operating at the time of the offense in accordance with 88366
section 4503.234 and division (G)(1)(c), (d), or (e) of section 88367
4511.19 or division ~~(B)~~(C)(2)(b) of section 4511.193 of the 88368
Revised Code and may impound the identification license plates of 88369
any other motor vehicle registered in the name of the person whose 88370
license is suspended. 88371

(C)(1) When a person is convicted of or pleads guilty to a 88372
violation of section 4510.14 of the Revised Code or a 88373
substantially equivalent municipal ordinance and division (B)(1) 88374
or (2) of section 4510.14 or division (C)(1) or (2) of section 88375
4510.161 of the Revised Code applies, the trial judge of the court 88376
of record or the mayor of the mayor's court that imposes sentence 88377
shall order the immobilization of the vehicle the person was 88378
operating at the time of the offense and the impoundment of its 88379
identification license plates in accordance with section 4503.233 88380
and division (B)(1) or (2) of section 4510.14 or division (C)(1) 88381
or (2) of section 4510.161 of the Revised Code and may impound the 88382

identification license plates of any other vehicle registered in 88383
the name of that person. 88384

(2) When a person is convicted of or pleads guilty to a 88385
violation of section 4510.14 of the Revised Code or a 88386
substantially equivalent municipal ordinance and division (B)(3) 88387
of section 4510.14 or division (C)(3) of section 4510.161 of the 88388
Revised Code applies, the trial judge of the court of record that 88389
imposes sentence shall order the criminal forfeiture to the state 88390
of the vehicle the person was operating at the time of the offense 88391
in accordance with section 4503.234 and division (B)(3) of section 88392
4510.14 or division (C)(3) of section 4510.161 of the Revised Code 88393
and may impound the identification license plates of any other 88394
vehicle registered in the name of that person. 88395

(D)~~(1)~~ When a person is convicted of or pleads guilty to a 88396
violation of division (A) of section 4510.16 of the Revised Code 88397
or a substantially equivalent municipal ordinance, division (B) of 88398
section 4510.16 or division (B) of section 4510.161 of the Revised 88399
Code applies in determining whether the immobilization of the 88400
vehicle the person was operating at the time of the offense and 88401
the impoundment of its identification license plates or the 88402
criminal forfeiture to the state of the vehicle the person was 88403
operating at the time of the offense is authorized or required. 88404
The trial judge of the court of record or the mayor of the mayor's 88405
court that imposes sentence may impound the identification license 88406
plates of any other vehicle registered in the name of that person. 88407

(E)(1) When a person is convicted of or pleads guilty to a 88408
violation of section 4511.203 of the Revised Code and the person 88409
is sentenced pursuant to division (C)(1) or (2) of section 88410
4511.203 of the Revised Code, the trial judge of the court of 88411
record or the mayor of the mayor's court that imposes sentence 88412
shall order the immobilization of the vehicle that was involved in 88413
the commission of the offense and the impoundment of its 88414

identification license plates in accordance with division (C)(1) 88415
or (2) of section 4511.203 and section 4503.233 of the Revised 88416
Code and may impound the identification license plates of any 88417
other vehicle registered in the name of that person. 88418

(2) When a person is convicted of or pleads guilty to a 88419
violation of section 4511.203 of the Revised Code and the person 88420
is sentenced pursuant to division (C)(3) of section 4511.203 of 88421
the Revised Code, the trial judge of the court of record or the 88422
mayor of the mayor's court that imposes sentence shall order the 88423
criminal forfeiture to the state of the vehicle that was involved 88424
in the commission of the offense in accordance with division 88425
(C)(3) of section 4511.203 and section 4503.234 of the Revised 88426
Code and may impound the identification license plates of any 88427
other vehicle registered in the name of that person. 88428

(F) Except as provided in section 4503.233 or 4503.234 of the 88429
Revised Code, when the certificate of registration, the 88430
identification license plates, or both have been impounded, 88431
division (B) of section 4507.02 of the Revised Code is applicable. 88432

(G) As used in this section, "municipal OVI offense" has the 88433
same meaning as in section 4511.181 of the Revised Code. 88434

Sec. 4507.1612. The registrar of motor vehicles shall not 88435
restore any operating privileges or reissue a probationary 88436
driver's license, restricted license, driver's license, or 88437
probationary commercial driver's license suspended under section 88438
2923.122 of the Revised Code until the person whose license was 88439
suspended pays a reinstatement fee of thirty dollars to the 88440
registrar ~~or an eligible deputy registrar. In addition, each~~ 88441
~~deputy registrar shall collect a service fee of ten dollars to~~ 88442
~~compensate the deputy registrar for services performed under this~~ 88443
~~section. The deputy registrar shall retain eight dollars of the~~ 88444
~~service fee and shall transmit the reinstatement fee, plus two~~ 88445

~~dollars of the service fee, to the registrar in the manner the registrar shall determine.~~ 88446
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The bureau of motor vehicles shall pay all fees collected under this section into the state treasury to the credit of the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code. 88448
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Sec. 4507.45. If a person's driver's license, commercial driver's license, or nonresident operating privilege is suspended, disqualified, or canceled for an indefinite period of time or for a period of at least ninety days, and if at the end of the period of suspension, disqualification, or cancellation the person is eligible to have the license or privilege reinstated, the registrar of motor vehicles ~~or an eligible deputy registrar~~ shall collect a reinstatement fee of forty dollars when the person requests reinstatement. ~~In addition, each deputy registrar shall collect a service fee of ten dollars to compensate the deputy registrar for services performed under this section. The deputy registrar shall retain eight dollars of the service fee and shall transmit the reinstatement fee, plus two dollars of the service fee, to the registrar in the manner the registrar shall determine.~~ However, the registrar ~~or an eligible deputy registrar~~ shall not collect the fee prescribed by this section if a different driver's license, commercial driver's license, or nonresident operating privilege reinstatement fee is prescribed by law. 88452
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The registrar shall deposit ten dollars of each forty-dollar fee into the state treasury to the credit of the indigent defense support fund created by section 120.08 of the Revised Code and thirty dollars of each fee into the state treasury to the credit of the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code. 88470
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Sec. 4509.101. (A)(1) No person shall operate, or permit the operation of, a motor vehicle in this state, unless proof of financial responsibility is maintained continuously throughout the registration period with respect to that vehicle, or, in the case of a driver who is not the owner, with respect to that driver's operation of that vehicle.

(2) Whoever violates division (A)(1) of this section shall be subject to the following civil penalties:

(a) Subject to divisions (A)(2)(b) and (c) of this section, a class E suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B)(5) of section 4510.02 of the Revised Code and impoundment of the person's license. The court may grant limited driving privileges to the person only if the person presents proof of financial responsibility and has complied with division (A)(5) of this section.

(b) If, within five years of the violation, the person's operating privileges are again suspended and the person's license again is impounded for a violation of division (A)(1) of this section, a class C suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code. The court may grant limited driving privileges to the person only if the person presents proof of financial responsibility and has complied with division (A)(5) of this section, and no court may grant limited driving privileges for the first fifteen days of the suspension.

(c) If, within five years of the violation, the person's operating privileges are suspended and the person's license is

impounded two or more times for a violation of division (A)(1) of 88507
this section, a class B suspension of the person's driver's 88508
license, commercial driver's license, temporary instruction 88509
permit, probationary license, or nonresident operating privilege 88510
for the period of time specified in division (B)(2) of section 88511
4510.02 of the Revised Code. No court may grant limited driving 88512
privileges during the suspension. 88513

(d) In addition to the suspension of an owner's license under 88514
division (A)(2)(a), (b), or (c) of this section, the suspension of 88515
the rights of the owner to register the motor vehicle and the 88516
impoundment of the owner's certificate of registration and license 88517
plates until the owner complies with division (A)(5) of this 88518
section. 88519

(3) A person to whom this state has issued a certificate of 88520
registration for a motor vehicle or a license to operate a motor 88521
vehicle or who is determined to have operated any motor vehicle or 88522
permitted the operation in this state of a motor vehicle owned by 88523
the person shall be required to verify the existence of proof of 88524
financial responsibility covering the operation of the motor 88525
vehicle or the person's operation of the motor vehicle under any 88526
of the following circumstances: 88527

(a) The person or a motor vehicle owned by the person is 88528
involved in a traffic accident that requires the filing of an 88529
accident report under section 4509.06 of the Revised Code. 88530

(b) The person receives a traffic ticket indicating that 88531
proof of the maintenance of financial responsibility was not 88532
produced upon the request of a peace officer or state highway 88533
patrol trooper made in accordance with division (D)(2) of this 88534
section. 88535

(c) Whenever, in accordance with rules adopted by the 88536
registrar, the person is randomly selected by the registrar and 88537

requested to provide such verification. 88538

(4) An order of the registrar that suspends and impounds a 88539
license or registration, or both, shall state the date on or 88540
before which the person is required to surrender the person's 88541
license or certificate of registration and license plates. The 88542
person is deemed to have surrendered the license or certificate of 88543
registration and license plates, in compliance with the order, if 88544
the person does either of the following: 88545

(a) On or before the date specified in the order, personally 88546
delivers the license or certificate of registration and license 88547
plates, or causes the delivery of the items, to the registrar; 88548

(b) Mails the license or certificate of registration and 88549
license plates to the registrar in an envelope or container 88550
bearing a postmark showing a date no later than the date specified 88551
in the order. 88552

(5) Except as provided in division (A)(6) or (L) of this 88553
section, the registrar shall not restore any operating privileges 88554
or registration rights suspended under this section, return any 88555
license, certificate of registration, or license plates impounded 88556
under this section, or reissue license plates under section 88557
4503.232 of the Revised Code, if the registrar destroyed the 88558
impounded license plates under that section, or reissue a license 88559
under section 4510.52 of the Revised Code, if the registrar 88560
destroyed the suspended license under that section, unless the 88561
rights are not subject to suspension or revocation under any other 88562
law and unless the person, in addition to complying with all other 88563
conditions required by law for reinstatement of the operating 88564
privileges or registration rights, complies with all of the 88565
following: 88566

(a) Pays to the registrar ~~or an eligible deputy registrar~~ a 88567
financial responsibility reinstatement fee of one hundred dollars 88568

for the first violation of division (A)(1) of this section, three 88569
hundred dollars for a second violation of that division, and six 88570
hundred dollars for a third or subsequent violation of that 88571
division; 88572

(b) If the person has not voluntarily surrendered the 88573
license, certificate, or license plates in compliance with the 88574
order, pays to the registrar ~~or an eligible deputy registrar~~ a 88575
financial responsibility nonvoluntary compliance fee in an amount, 88576
not to exceed fifty dollars, determined by the registrar; 88577

(c) Files and continuously maintains proof of financial 88578
responsibility under sections 4509.44 to 4509.65 of the Revised 88579
Code; 88580

~~(d) Pays a deputy registrar a service fee of ten dollars to 88581
compensate the deputy registrar for services performed under this 88582
section. The deputy registrar shall retain eight dollars of the 88583
service fee and shall transmit the reinstatement fee, any 88584
nonvoluntary compliance fee, and two dollars of the service fee to 88585
the registrar in the manner the registrar shall determine. 88586~~

(6) If the registrar issues an order under division (A)(2) of 88587
this section resulting from the failure of a person to respond to 88588
a financial responsibility random verification request under 88589
division (A)(3)(c) of this section and the person successfully 88590
maintains an affirmative defense to a violation of section 4510.16 88591
of the Revised Code or is determined by the registrar or a deputy 88592
registrar to have been in compliance with division (A)(1) of this 88593
section at the time of the initial financial responsibility random 88594
verification request, the registrar shall do both of the 88595
following: 88596

(a) Terminate the order of suspension or impoundment; 88597

(b) Restore the operating privileges and registration rights 88598
of the person without payment of the fees established in divisions 88599

(A)(5)(a) and (b) of this section and without a requirement to 88600
file proof of financial responsibility. 88601

(B)(1) Every party required to file an accident report under 88602
section 4509.06 of the Revised Code also shall include with the 88603
report a document described in division (G)(1) of this section. 88604

If the registrar determines, within forty-five days after the 88605
report is filed, that an operator or owner has violated division 88606
(A)(1) of this section, the registrar shall do all of the 88607
following: 88608

(a) Order the impoundment, with respect to the motor vehicle 88609
involved, required under division (A)(2)(d) of this section, of 88610
the certificate of registration and license plates of any owner 88611
who has violated division (A)(1) of this section; 88612

(b) Order the suspension required under division (A)(2)(a), 88613
(b), or (c) of this section of the license of any operator or 88614
owner who has violated division (A)(1) of this section; 88615

(c) Record the name and address of the person whose 88616
certificate of registration and license plates have been impounded 88617
or are under an order of impoundment, or whose license has been 88618
suspended or is under an order of suspension; the serial number of 88619
the person's license; the serial numbers of the person's 88620
certificate of registration and license plates; and the person's 88621
social security account number, if assigned, or, where the motor 88622
vehicle is used for hire or principally in connection with any 88623
established business, the person's federal taxpayer identification 88624
number. The information shall be recorded in such a manner that it 88625
becomes a part of the person's permanent record, and assists the 88626
registrar in monitoring compliance with the orders of suspension 88627
or impoundment. 88628

(d) Send written notification to every person to whom the 88629
order pertains, at the person's last known address as shown on the 88630

records of the bureau. The person, within ten days after the date 88631
of the mailing of the notification, shall surrender to the 88632
registrar, in a manner set forth in division (A)(4) of this 88633
section, any certificate of registration and registration plates 88634
under an order of impoundment, or any license under an order of 88635
suspension. 88636

(2) The registrar shall issue any order under division (B)(1) 88637
of this section without a hearing. Any person adversely affected 88638
by the order, within ten days after the issuance of the order, may 88639
request an administrative hearing before the registrar, who shall 88640
provide the person with an opportunity for a hearing in accordance 88641
with this paragraph. A request for a hearing does not operate as a 88642
suspension of the order. The scope of the hearing shall be limited 88643
to whether the person in fact demonstrated to the registrar proof 88644
of financial responsibility in accordance with this section. The 88645
registrar shall determine the date, time, and place of any 88646
hearing, provided that the hearing shall be held, and an order 88647
issued or findings made, within thirty days after the registrar 88648
receives a request for a hearing. If requested by the person in 88649
writing, the registrar may designate as the place of hearing the 88650
county seat of the county in which the person resides or a place 88651
within fifty miles of the person's residence. The person shall pay 88652
the cost of the hearing before the registrar, if the registrar's 88653
order of suspension or impoundment is upheld. 88654

(C) Any order of suspension or impoundment issued under this 88655
section or division (B) of section 4509.37 of the Revised Code may 88656
be terminated at any time if the registrar determines upon a 88657
showing of proof of financial responsibility that the operator or 88658
owner of the motor vehicle was in compliance with division (A)(1) 88659
of this section at the time of the traffic offense, motor vehicle 88660
inspection, or accident that resulted in the order against the 88661
person. A determination may be made without a hearing. This 88662

division does not apply unless the person shows good cause for the 88663
person's failure to present satisfactory proof of financial 88664
responsibility to the registrar prior to the issuance of the 88665
order. 88666

(D)(1) For the purpose of enforcing this section, every peace 88667
officer is deemed an agent of the registrar. 88668

(a) Except as provided in division (D)(1)(b) of this section, 88669
any peace officer who, in the performance of the peace officer's 88670
duties as authorized by law, becomes aware of a person whose 88671
license is under an order of suspension, or whose certificate of 88672
registration and license plates are under an order of impoundment, 88673
pursuant to this section, may confiscate the license, certificate 88674
of registration, and license plates, and return them to the 88675
registrar. 88676

(b) Any peace officer who, in the performance of the peace 88677
officer's duties as authorized by law, becomes aware of a person 88678
whose license is under an order of suspension, or whose 88679
certificate of registration and license plates are under an order 88680
of impoundment resulting from failure to respond to a financial 88681
responsibility random verification, shall not, for that reason, 88682
arrest the owner or operator or seize the vehicle or license 88683
plates. Instead, the peace officer shall issue a citation for a 88684
violation of section 4510.16 of the Revised Code specifying the 88685
circumstances as failure to respond to a financial responsibility 88686
random verification. 88687

(2) A peace officer shall request the owner or operator of a 88688
motor vehicle to produce proof of financial responsibility in a 88689
manner described in division (G) of this section at the time the 88690
peace officer acts to enforce the traffic laws of this state and 88691
during motor vehicle inspections conducted pursuant to section 88692
4513.02 of the Revised Code. 88693

(3) A peace officer shall indicate on every traffic ticket 88694
whether the person receiving the traffic ticket produced proof of 88695
the maintenance of financial responsibility in response to the 88696
officer's request under division (D)(2) of this section. The peace 88697
officer shall inform every person who receives a traffic ticket 88698
and who has failed to produce proof of the maintenance of 88699
financial responsibility that the person must submit proof to the 88700
traffic violations bureau with any payment of a fine and costs for 88701
the ticketed violation or, if the person is to appear in court for 88702
the violation, the person must submit proof to the court. 88703

(4)(a) If a person who has failed to produce proof of the 88704
maintenance of financial responsibility appears in court for a 88705
ticketed violation, the court may permit the defendant to present 88706
evidence of proof of financial responsibility to the court at such 88707
time and in such manner as the court determines to be necessary or 88708
appropriate. In a manner prescribed by the registrar, the clerk of 88709
courts shall provide the registrar with the identity of any person 88710
who fails to submit proof of the maintenance of financial 88711
responsibility pursuant to division (D)(3) of this section. 88712

(b) If a person who has failed to produce proof of the 88713
maintenance of financial responsibility also fails to submit that 88714
proof to the traffic violations bureau with payment of a fine and 88715
costs for the ticketed violation, the traffic violations bureau, 88716
in a manner prescribed by the registrar, shall notify the 88717
registrar of the identity of that person. 88718

(5)(a) Upon receiving notice from a clerk of courts or 88719
traffic violations bureau pursuant to division (D)(4) of this 88720
section, the registrar shall order the suspension of the license 88721
of the person required under division (A)(2)(a), (b), or (c) of 88722
this section and the impoundment of the person's certificate of 88723
registration and license plates required under division (A)(2)(d) 88724
of this section, effective thirty days after the date of the 88725

mailing of notification. The registrar also shall notify the 88726
person that the person must present the registrar with proof of 88727
financial responsibility in accordance with this section, 88728
surrender to the registrar the person's certificate of 88729
registration, license plates, and license, or submit a statement 88730
subject to section 2921.13 of the Revised Code that the person did 88731
not operate or permit the operation of the motor vehicle at the 88732
time of the offense. Notification shall be in writing and shall be 88733
sent to the person at the person's last known address as shown on 88734
the records of the bureau of motor vehicles. The person, within 88735
fifteen days after the date of the mailing of notification, shall 88736
present proof of financial responsibility, surrender the 88737
certificate of registration, license plates, and license to the 88738
registrar in a manner set forth in division (A)(4) of this 88739
section, or submit the statement required under this section 88740
together with other information the person considers appropriate. 88741

If the registrar does not receive proof or the person does 88742
not surrender the certificate of registration, license plates, and 88743
license, in accordance with this division, the registrar shall 88744
permit the order for the suspension of the license of the person 88745
and the impoundment of the person's certificate of registration 88746
and license plates to take effect. 88747

(b) In the case of a person who presents, within the 88748
fifteen-day period, documents to show proof of financial 88749
responsibility, the registrar shall terminate the order of 88750
suspension and the impoundment of the registration and license 88751
plates required under division (A)(2)(d) of this section and shall 88752
send written notification to the person, at the person's last 88753
known address as shown on the records of the bureau. 88754

(c) Any person adversely affected by the order of the 88755
registrar under division (D)(5)(a) or (b) of this section, within 88756
ten days after the issuance of the order, may request an 88757

administrative hearing before the registrar, who shall provide the 88758
person with an opportunity for a hearing in accordance with this 88759
paragraph. A request for a hearing does not operate as a 88760
suspension of the order. The scope of the hearing shall be limited 88761
to whether, at the time of the hearing, the person presents proof 88762
of financial responsibility covering the vehicle and whether the 88763
person is eligible for an exemption in accordance with this 88764
section or any rule adopted under it. The registrar shall 88765
determine the date, time, and place of any hearing; provided, that 88766
the hearing shall be held, and an order issued or findings made, 88767
within thirty days after the registrar receives a request for a 88768
hearing. If requested by the person in writing, the registrar may 88769
designate as the place of hearing the county seat of the county in 88770
which the person resides or a place within fifty miles of the 88771
person's residence. Such person shall pay the cost of the hearing 88772
before the registrar, if the registrar's order of suspension or 88773
impoundment under division (D)(5)(a) or (b) of this section is 88774
upheld. 88775

(6) A peace officer may charge an owner or operator of a 88776
motor vehicle with a violation of section 4510.16 of the Revised 88777
Code when the owner or operator fails to show proof of the 88778
maintenance of financial responsibility pursuant to a peace 88779
officer's request under division (D)(2) of this section, if a 88780
check of the owner or operator's driving record indicates that the 88781
owner or operator, at the time of the operation of the motor 88782
vehicle, is required to file and maintain proof of financial 88783
responsibility under section 4509.45 of the Revised Code for a 88784
previous violation of this chapter. 88785

(7) Any forms used by law enforcement agencies in 88786
administering this section shall be prescribed, supplied, and paid 88787
for by the registrar. 88788

(8) No peace officer, law enforcement agency employing a 88789

peace officer, or political subdivision or governmental agency 88790
that employs a peace officer shall be liable in a civil action for 88791
damages or loss to persons arising out of the performance of any 88792
duty required or authorized by this section. 88793

(9) As used in this division and divisions (E) and (G) of 88794
this section, "peace officer" has the meaning set forth in section 88795
2935.01 of the Revised Code. 88796

(E) All fees, except court costs, ~~fees paid to a deputy~~ 88797
~~registrar,~~ and those portions of the financial responsibility 88798
reinstatement fees as otherwise specified in this division, 88799
collected under this section shall be paid into the state treasury 88800
to the credit of the financial responsibility compliance fund. The 88801
financial responsibility compliance fund shall be used exclusively 88802
to cover costs incurred by the bureau in the administration of 88803
this section and sections 4503.20, 4507.212, and 4509.81 of the 88804
Revised Code, and by any law enforcement agency employing any 88805
peace officer who returns any license, certificate of 88806
registration, and license plates to the registrar pursuant to 88807
division (C) of this section, except that the director of budget 88808
and management may transfer excess money from the financial 88809
responsibility compliance fund to the state bureau of motor 88810
vehicles fund if the registrar determines that the amount of money 88811
in the financial responsibility compliance fund exceeds the amount 88812
required to cover such costs incurred by the bureau or a law 88813
enforcement agency and requests the director to make the transfer. 88814

Of each financial responsibility reinstatement fee the 88815
registrar collects pursuant to division (A)(5)(a) of this section 88816
~~or receives from a deputy registrar under division (A)(5)(d) of~~ 88817
~~this section,~~ the registrar shall deposit twenty-five dollars of 88818
each one-hundred-dollar reinstatement fee, fifty dollars of each 88819
three-hundred-dollar reinstatement fee, and one hundred dollars of 88820
each six-hundred-dollar reinstatement fee into the state treasury 88821

to the credit of the indigent defense support fund created by 88822
section 120.08 of the Revised Code. 88823

All investment earnings of the financial responsibility 88824
compliance fund shall be credited to the fund. 88825

(F) Chapter 119. of the Revised Code applies to this section 88826
only to the extent that any provision in that chapter is not 88827
clearly inconsistent with this section. 88828

(G)(1) The registrar, court, traffic violations bureau, or 88829
peace officer may require proof of financial responsibility to be 88830
demonstrated by use of a standard form prescribed by the 88831
registrar. If the use of a standard form is not required, a person 88832
may demonstrate proof of financial responsibility under this 88833
section by presenting to the traffic violations bureau, court, 88834
registrar, or peace officer any of the following documents or a 88835
copy of the documents: 88836

(a) A financial responsibility identification card as 88837
provided in section 4509.103 of the Revised Code; 88838

(b) A certificate of proof of financial responsibility on a 88839
form provided and approved by the registrar for the filing of an 88840
accident report required to be filed under section 4509.06 of the 88841
Revised Code; 88842

(c) A policy of liability insurance, a declaration page of a 88843
policy of liability insurance, or liability bond, if the policy or 88844
bond complies with section 4509.20 or sections 4509.49 to 4509.61 88845
of the Revised Code; 88846

(d) A bond or certification of the issuance of a bond as 88847
provided in section 4509.59 of the Revised Code; 88848

(e) A certificate of deposit of money or securities as 88849
provided in section 4509.62 of the Revised Code; 88850

(f) A certificate of self-insurance as provided in section 88851

4509.72 of the Revised Code. 88852

(2) If a person fails to demonstrate proof of financial 88853
responsibility in a manner described in division (G)(1) of this 88854
section, the person may demonstrate proof of financial 88855
responsibility under this section by any other method that the 88856
court or the bureau, by reason of circumstances in a particular 88857
case, may consider appropriate. 88858

(3) A motor carrier certificated by the interstate commerce 88859
commission or by the public utilities commission may demonstrate 88860
proof of financial responsibility by providing a statement 88861
designating the motor carrier's operating authority and averring 88862
that the insurance coverage required by the certificating 88863
authority is in full force and effect. 88864

(4)(a) A finding by the registrar or court that a person is 88865
covered by proof of financial responsibility in the form of an 88866
insurance policy or surety bond is not binding upon the named 88867
insurer or surety or any of its officers, employees, agents, or 88868
representatives and has no legal effect except for the purpose of 88869
administering this section. 88870

(b) The preparation and delivery of a financial 88871
responsibility identification card or any other document 88872
authorized to be used as proof of financial responsibility under 88873
this division does not do any of the following: 88874

(i) Create any liability or estoppel against an insurer or 88875
surety, or any of its officers, employees, agents, or 88876
representatives; 88877

(ii) Constitute an admission of the existence of, or of any 88878
liability or coverage under, any policy or bond; 88879

(iii) Waive any defenses or counterclaims available to an 88880
insurer, surety, agent, employee, or representative in an action 88881
commenced by an insured or third-party claimant upon a cause of 88882

action alleged to have arisen under an insurance policy or surety 88883
bond or by reason of the preparation and delivery of a document 88884
for use as proof of financial responsibility. 88885

(c) Whenever it is determined by a final judgment in a 88886
judicial proceeding that an insurer or surety, which has been 88887
named on a document accepted by a court or the registrar as proof 88888
of financial responsibility covering the operation of a motor 88889
vehicle at the time of an accident or offense, is not liable to 88890
pay a judgment for injuries or damages resulting from such 88891
operation, the registrar, notwithstanding any previous contrary 88892
finding, shall forthwith suspend the operating privileges and 88893
registration rights of the person against whom the judgment was 88894
rendered as provided in division (A)(2) of this section. 88895

(H) In order for any document described in division (G)(1)(b) 88896
of this section to be used for the demonstration of proof of 88897
financial responsibility under this section, the document shall 88898
state the name of the insured or obligor, the name of the insurer 88899
or surety company, and the effective and expiration dates of the 88900
financial responsibility, and designate by explicit description or 88901
by appropriate reference all motor vehicles covered which may 88902
include a reference to fleet insurance coverage. 88903

(I) For purposes of this section, "owner" does not include a 88904
licensed motor vehicle leasing dealer as defined in section 88905
4517.01 of the Revised Code, but does include a motor vehicle 88906
renting dealer as defined in section 4549.65 of the Revised Code. 88907
Nothing in this section or in section 4509.51 of the Revised Code 88908
shall be construed to prohibit a motor vehicle renting dealer from 88909
entering into a contractual agreement with a person whereby the 88910
person renting the motor vehicle agrees to be solely responsible 88911
for maintaining proof of financial responsibility, in accordance 88912
with this section, with respect to the operation, maintenance, or 88913
use of the motor vehicle during the period of the motor vehicle's 88914

rental. 88915

(J) The purpose of this section is to require the maintenance 88916
of proof of financial responsibility with respect to the operation 88917
of motor vehicles on the highways of this state, so as to minimize 88918
those situations in which persons are not compensated for injuries 88919
and damages sustained in motor vehicle accidents. The general 88920
assembly finds that this section contains reasonable civil 88921
penalties and procedures for achieving this purpose. 88922

(K) Nothing in this section shall be construed to be subject 88923
to section 4509.78 of the Revised Code. 88924

(L)(1) The registrar may terminate any suspension imposed 88925
under this section and not require the owner to comply with 88926
divisions (A)(5)(a), (b), and (c) of this section if the registrar 88927
with or without a hearing determines that the owner of the vehicle 88928
has established by clear and convincing evidence that all of the 88929
following apply: 88930

(a) The owner customarily maintains proof of financial 88931
responsibility. 88932

(b) Proof of financial responsibility was not in effect for 88933
the vehicle on the date in question for one of the following 88934
reasons: 88935

(i) The vehicle was inoperable. 88936

(ii) The vehicle is operated only seasonally, and the date in 88937
question was outside the season of operation. 88938

(iii) A person other than the vehicle owner or driver was at 88939
fault for the lapse of proof of financial responsibility through 88940
no fault of the owner or driver. 88941

(iv) The lapse of proof of financial responsibility was 88942
caused by excusable neglect under circumstances that are not 88943
likely to recur and do not suggest a purpose to evade the 88944

requirements of this chapter. 88945

(2) The registrar may grant an owner or driver relief for a 88946
reason specified in division (L)(1)(b)(i) or (ii) of this section 88947
whenever the owner or driver is randomly selected to verify the 88948
existence of proof of financial responsibility for such a vehicle. 88949
However, the registrar may grant an owner or driver relief for a 88950
reason specified in division (L)(1)(b)(iii) or (iv) of this 88951
section only if the owner or driver has not previously been 88952
granted relief under division (L)(1)(b)(iii) or (iv) of this 88953
section. 88954

(M) The registrar shall adopt rules in accordance with 88955
Chapter 119. of the Revised Code that are necessary to administer 88956
and enforce this section. The rules shall include procedures for 88957
the surrender of license plates upon failure to maintain proof of 88958
financial responsibility and provisions relating to reinstatement 88959
of registration rights, acceptable forms of proof of financial 88960
responsibility, and verification of the existence of financial 88961
responsibility during the period of registration. 88962

Sec. 4509.81. (A) Upon receipt of a notification of violation 88963
as provided in division (C) of section 4509.80 of the Revised 88964
Code; upon failure of a timely surrender of the livery license 88965
plate sticker as required by division (D) of section 4509.80 of 88966
the Revised Code; or if the registrar of motor vehicles, upon 88967
receipt of notification from an insurer of the imminent 88968
cancellation or termination of coverage required by section 88969
4509.80 of the Revised Code, fails to receive evidence of a 88970
continuation or substitution of coverage prior to the cancellation 88971
or termination date, the registrar shall order the immediate 88972
suspension of the rights of the owner of the chauffeured limousine 88973
described in the notice to register the limousine and the 88974
impoundment of the certificate of registration and registration 88975

plates for the limousine. The registrar shall notify the owner 88976
that the owner must surrender the certificate of registration and 88977
registration plates to the registrar. The notification shall be in 88978
writing and sent to the owner at the owner's last known address as 88979
shown in the records of the bureau of motor vehicles. Proceedings 88980
under this section are deemed special, summary statutory 88981
proceedings. 88982

(B) The order of suspension and impoundment of a registration 88983
shall state the date on or before which the owner of the 88984
chauffeured limousine involved is required to surrender the 88985
certificate of registration and registration plates to the 88986
registrar. The owner shall be deemed to have surrendered the 88987
certificate of registration and registration plates if the owner 88988
causes the items to be delivered to the registrar on or before the 88989
date specified in the order or mails the items to the registrar in 88990
an envelope or container bearing a postmark showing a date no 88991
later than the date specified in the order. 88992

(C) The registrar shall not restore any registration rights 88993
suspended under this section, return any certificate of 88994
registration or registration plates impounded under this section, 88995
or reissue registration plates under section 4503.232 of the 88996
Revised Code, if the registrar destroyed the impounded 88997
registration plates under that section, unless those rights are 88998
not subject to suspension under any other law and unless the owner 88999
complies with both of the following: 89000

(1) Pays to the registrar ~~or an eligible deputy registrar~~ a 89001
financial responsibility reinstatement fee of thirty dollars. The 89002
reinstatement fee may be increased, upon approval of the 89003
controlling board, up to an amount not exceeding fifty dollars. ~~In~~ 89004
~~addition, pays a service fee of ten dollars to each deputy~~ 89005
~~registrar to compensate the deputy registrar for services~~ 89006

~~performed under this section. The deputy registrar shall retain 89007
eight dollars of the service fee and shall transmit the 89008
reinstatement fee and two dollars of the service fee to the 89009
registrar in the manner the registrar shall determine. 89010~~

(2) Files and maintains proof of financial responsibility 89011
under section 4509.80 of the Revised Code. 89012

(D) Any owner adversely affected by the order of the 89013
registrar under this section ~~may~~, within ten days after the 89014
issuance of the order, may request an administrative hearing 89015
before the registrar, who shall provide the owner with an 89016
opportunity for a hearing in accordance with this division. A 89017
request for a hearing does not operate as a suspension of the 89018
order unless the owner establishes to the satisfaction of the 89019
registrar that the operation of the owner's chauffeured limousine 89020
will be covered by proof of financial responsibility during the 89021
pendency of the appeal. The scope of the hearing shall be limited 89022
to whether the owner in fact demonstrated to the registrar proof 89023
of financial responsibility in accordance with section 4509.80 of 89024
the Revised Code. The registrar shall determine the date, time, 89025
and place of any hearing, provided that the hearing shall be held 89026
and an order issued or findings made within thirty days after the 89027
registrar receives a request for a hearing. If requested by the 89028
owner in writing, the registrar may designate as the place of 89029
hearing the county seat of the county in which the owner resides 89030
or a place within fifty miles of the owner's residence. The owner 89031
shall pay the cost of the hearing before the registrar, if the 89032
registrar's order of suspension or impoundment is upheld. 89033

(E) Any order of suspension or impoundment issued under this 89034
section may be terminated at any time if the registrar determines 89035
upon a showing of proof of financial responsibility that the owner 89036
of the limousine was in compliance with section 4509.80 of the 89037
Revised Code at the time of the incident that resulted in the 89038

order against the owner. Such a determination may be made without a hearing. 89039
89040

(F) All fees ~~except the two dollar service fee transmitted to the registrar by a deputy registrar,~~ that are collected by the registrar ~~or transmitted to the registrar~~ under this section shall be paid into the state treasury to the credit of the financial responsibility compliance fund created by section 4509.101 of the Revised Code. 89041
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(G) Chapter 119. of the Revised Code applies to this section only to the extent that any provision in that chapter is not clearly inconsistent with this section. 89047
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(H)(1) Proof of financial responsibility may be demonstrated by any of the methods authorized in section 4509.80 of the Revised Code. 89050
89051
89052

(2) Divisions (G)(4)(a) and (b) of section 4509.101 of the Revised Code apply to any finding by the registrar under this section that an owner is covered by proof of financial responsibility. 89053
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Sec. 4510.10. (A) As used in this section, "reinstatement fees" means the fees that are required under section 4507.1612, 4507.45, 4509.101, 4509.81, 4511.191, 4511.951, or any other provision of the Revised Code, or under a schedule established by the bureau of motor vehicles, in order to reinstate a driver's or commercial driver's license or permit or nonresident operating privilege of an offender under a suspension. 89057
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(B) Reinstatement fees are those fees that compensate the bureau of motor vehicles for suspensions, cancellations, or disqualifications of a person's driving privileges and to compensate the bureau and other agencies in their administration of programs intended to reduce and eliminate threats to public 89064
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safety through education, treatment, and other activities. The 89069
registrar of motor vehicles shall not reinstate a driver's or 89070
commercial driver's license or permit or nonresident operating 89071
privilege of a person until the person has paid all reinstatement 89072
fees and has complied with all conditions for each suspension, 89073
cancellation, or disqualification incurred by that person. 89074

(C) When a municipal court or county court determines in a 89075
pending case involving an offender that the offender cannot 89076
reasonably pay reinstatement fees due and owing by the offender 89077
relative to one or more suspensions that have been or will be 89078
imposed by the bureau of motor vehicles or by a court of this 89079
state, the court, by order, may undertake an installment payment 89080
plan or a payment extension plan for the payment of reinstatement 89081
fees due and owing to the bureau in that pending case. The court 89082
shall establish an installment payment plan or a payment extension 89083
plan under this division in accordance with the requirements of 89084
divisions (D)(1) and (2) of this section. 89085

(D) Independent of the provisions of division (C) of this 89086
section, an offender who cannot reasonably pay reinstatement fees 89087
due and owing by the offender relative to a suspension that has 89088
been imposed on the offender may file a petition in the municipal 89089
court, county court, or, if the person is under the age of 89090
eighteen, the juvenile division of the court of common pleas in 89091
whose jurisdiction the person resides or, if the person is not a 89092
resident of this state, in the Franklin county municipal court or 89093
juvenile division of the Franklin county court of common pleas for 89094
an order that does either of the following, in order of 89095
preference: 89096

(1) Establishes a reasonable payment plan of not less than 89097
fifty dollars per month, to be paid by the offender to the 89098
registrar of motor vehicles ~~or an eligible deputy registrar~~, in 89099
all succeeding months until all reinstatement fees required of the 89100

~~offender are paid in full. If the person is making payments to a 89101
deputy registrar, the deputy registrar shall collect a service fee 89102
of ten dollars each time the deputy registrar collects a payment 89103
to compensate the deputy registrar for services performed under 89104
this section. The deputy registrar shall retain eight dollars of 89105
the service fee and shall transmit the reinstatement payments, 89106
plus two dollars of each service fee, to the registrar in the 89107
manner the registrar shall determine. 89108~~

(2) If the offender, but for the payment of the reinstatement 89109
fees, otherwise would be entitled to operate a vehicle in this 89110
state or to obtain reinstatement of the offender's operating 89111
privileges, permits the offender to operate a motor vehicle, as 89112
authorized by the court, until a future date upon which date all 89113
reinstatement fees must be paid in full. A payment extension 89114
granted under this division shall not exceed one hundred eighty 89115
days, and any operating privileges granted under this division 89116
shall be solely for the purpose of permitting the offender 89117
occupational or "family necessity" privileges in order to enable 89118
the offender to reasonably acquire the delinquent reinstatement 89119
fees due and owing. 89120

(E) If a municipal court, county court, or juvenile division 89121
enters an order of the type described in division (C) or division 89122
(D)(1) or (2) of this section, the court, at any time after the 89123
issuance of the order, may determine that a change of 89124
circumstances has occurred and may amend the order as justice 89125
requires, provided that the amended order also shall be an order 89126
that is permitted under division (C) or division (D)(1) or (2) of 89127
this section. 89128

(F) If a court enters an order of the type described in 89129
division (C), (D)(1), (D)(2), or (E) of this section, during the 89130
pendency of the order, the offender in relation to whom it applies 89131
is not subject to prosecution for failing to pay the reinstatement 89132

fees covered by the order. 89133

(G) Reinstatement fees are debts that may be discharged in 89134
bankruptcy. 89135

(H)(1)(a) The registrar, in accordance with Chapter 119. of 89136
the Revised Code, shall adopt rules establishing a reinstatement 89137
fee payment pilot program not later than January 1, 2013. The 89138
pilot program shall permit the registrar, with the approval of the 89139
director of public safety, to designate at least one but not more 89140
than three clerks of a municipal court or county court to collect 89141
reinstatement fees and processing fees on behalf of the registrar. 89142
The rules shall specify all of the following: 89143

(i) The reinstatement and processing fees that the clerk may 89144
collect under the program; 89145

(ii) Minimum standards the clerk is required to meet and 89146
maintain; 89147

(iii) Terms of the contract between the registrar and the 89148
clerk; 89149

(iv) The amount of bond that will be required of the clerk; 89150

(v) Requirements for employees and facilities of the clerk; 89151

(vi) Any other requirements as the registrar may prescribe. 89152

(b) In addition to the reinstatement and processing fees the 89153
clerk collects on behalf of the registrar, the clerk may collect a 89154
service fee of ten dollars. If the clerk collects such a service 89155
fee, the clerk shall collect only one service fee irrespective of 89156
the number of reinstatement and processing fees the clerk collects 89157
at any one time relative to one person. The clerk shall retain 89158
eight dollars of each service fee for the clerk's services and 89159
shall transmit the reinstatement and processing fees and the 89160
remaining two dollars of each service fee to the registrar. The 89161
registrar shall deposit the two dollars of each service fee the 89162

registrar receives from a clerk under division (H)(1)(b) of this 89163
section into the state bureau of motor vehicles fund created in 89164
section 4501.25 of the Revised Code. The rules may require a clerk 89165
who collects a reinstatement or processing fee also to collect any 89166
other valid reinstatement documents or other evidence that is 89167
submitted with the payment of the reinstatement or processing fee. 89168
The rules shall specify the time and manner in which the clerk 89169
shall transmit the fees, documents, and evidence to the registrar 89170
for final approval and clearance, as appropriate. 89171

(2) The registrar shall evaluate the effectiveness of the 89172
reinstatement fee payment pilot program for a period not to exceed 89173
one year. After completion of the evaluation, if the registrar 89174
determines that the pilot program was a success, the registrar, 89175
with the approval of the director, shall adopt any amendments to 89176
the rules adopted under division (H)(1)(a) of this section based 89177
on the evaluation that are necessary to make the pilot program 89178
permanent and to expand the pilot program as described in division 89179
(H)(2) of this section. At a minimum, the amended rules shall 89180
require the registrar to make reasonable attempts to contract with 89181
at least one clerk of a municipal or county court in each county 89182
to collect reinstatement, processing, and service fees on behalf 89183
of the registrar unless a reinstatement office already exists in 89184
that county or the registrar determines that it is not practical 89185
to enter into such a contract with a clerk of a municipal or 89186
county court in a particular county. 89187

(3) A clerk of a municipal or county court who collects 89188
reinstatement fees, processing fees, service fees, and 89189
reinstatement documents or evidence under division (H) of this 89190
section and the applicable rules may issue an order that permits a 89191
person to operate a motor vehicle for a period not exceeding 89192
thirty days pending the registrar's final determination of whether 89193
all reinstatement requirements have been met or if additional 89194

reinstatement requirements must be met before the suspension may 89195
be terminated or the reinstatement may be entered. The registrar 89196
shall send a written notice of the registrar's final determination 89197
to the person at the person's last known address as shown in the 89198
records of the bureau. 89199

Sec. 4510.22. (A) If a person who has a current valid Ohio 89200
driver's, commercial driver's license, or temporary instruction 89201
permit is charged with a violation of any provision in sections 89202
4511.01 to 4511.76, 4511.84, 4513.01 to 4513.65, or 4549.01 to 89203
4549.65 of the Revised Code that is classified as a misdemeanor of 89204
the first, second, third, or fourth degree or with a violation of 89205
any substantially equivalent municipal ordinance and if the person 89206
either fails to appear in court at the required time and place to 89207
answer the charge or pleads guilty to or is found guilty of the 89208
violation and fails within the time allowed by the court to pay 89209
the fine imposed by the court, the court shall declare the 89210
forfeiture of the person's license. Thirty days after the 89211
declaration of forfeiture, the court shall inform the registrar of 89212
motor vehicles of the forfeiture by entering information relative 89213
to the forfeiture on a form approved and furnished by the 89214
registrar and sending the form to the registrar. The court also 89215
shall forward the person's license, if it is in the possession of 89216
the court, to the registrar. 89217

The registrar shall impose a class F suspension of the 89218
person's driver's or commercial driver's license, or temporary 89219
instruction permit for the period of time specified in division 89220
(B)(6) of section 4510.02 of the Revised Code on any person who is 89221
named in a declaration received by the registrar under this 89222
section. The registrar shall send written notification of the 89223
suspension to the person at the person's last known address and, 89224
if the person is in possession of the license, order the person to 89225
surrender the person's license or permit to the registrar within 89226

forty-eight hours. 89227

No valid driver's or commercial driver's license shall be 89228
granted to the person after the suspension, unless the court 89229
having jurisdiction of the offense that led to the suspension 89230
orders that the forfeiture be terminated. The court shall order 89231
the termination of the forfeiture if the person thereafter appears 89232
to answer the charge and pays any fine imposed by the court or 89233
pays the fine originally imposed by the court. The court shall 89234
inform the registrar of the termination of the forfeiture by 89235
entering information relative to the termination on a form 89236
approved and furnished by the registrar and sending the form to 89237
the registrar. The person shall pay to the registrar of motor 89238
vehicles ~~or an eligible deputy registrar~~ a twenty-five-dollar 89239
reinstatement fee. ~~In addition, each deputy registrar shall~~ 89240
~~collect a service fee of ten dollars to compensate the deputy~~ 89241
~~registrar for services performed under this section. The deputy~~ 89242
~~registrar shall retain eight dollars of the service fee and shall~~ 89243
~~transmit the reinstatement fee, plus two dollars of the service~~ 89244
~~fee, to the registrar in the manner the registrar shall determine.~~ 89245
The registrar shall deposit fifteen dollars of the reinstatement 89246
fee into the state treasury to the credit of the state bureau of 89247
motor vehicles fund created by section 4501.25 of the Revised Code 89248
to cover the costs of the bureau in administering this section and 89249
shall deposit ten dollars of the fee into the state treasury to 89250
the credit of the indigent defense support fund created by section 89251
120.08 of the Revised Code. 89252

(B) In addition to suspending the driver's or commercial 89253
driver's license or permit of the person named in a declaration of 89254
forfeiture, the registrar, upon receipt from the court of the copy 89255
of the declaration of forfeiture, shall take any measures that may 89256
be necessary to ensure that neither the registrar nor any deputy 89257
registrar accepts any application for the registration or transfer 89258

of registration of any motor vehicle owned or leased by the person 89259
named in the declaration of forfeiture. However, for a motor 89260
vehicle leased by a person named in a declaration of forfeiture, 89261
the registrar shall not implement the preceding sentence until the 89262
registrar adopts procedures for that implementation under section 89263
4503.39 of the Revised Code. The period of denial of registration 89264
or transfer shall continue until such time as the court having 89265
jurisdiction of the offense that led to the suspension orders the 89266
forfeiture be terminated. Upon receipt by the registrar of an 89267
order terminating the forfeiture, the registrar also shall take 89268
any measures that may be necessary to permit the person to 89269
register a motor vehicle owned or leased by the person or to 89270
transfer the registration of such a motor vehicle, if the person 89271
later makes application to take such action and otherwise is 89272
eligible to register the motor vehicle or to transfer its 89273
registration. 89274

The registrar shall not be required to give effect to any 89275
declaration of forfeiture or order terminating a forfeiture 89276
provided by a court under this section unless the information 89277
contained in the declaration or order is transmitted to the 89278
registrar by means of an electronic transfer system. The registrar 89279
shall not restore the person's driving or vehicle registration 89280
privileges until the person pays the reinstatement fee as provided 89281
in this section. 89282

The period of denial relating to the issuance or transfer of 89283
a certificate of registration for a motor vehicle imposed pursuant 89284
to this division remains in effect until the person pays any fine 89285
imposed by the court relative to the offense. 89286

Sec. 4510.72. (A) A fee of thirty dollars shall be charged by 89287
the registrar of motor vehicles ~~or an eligible deputy registrar~~ 89288
for the reinstatement of any driver's license suspended pursuant 89289

to division (A) of Article IV of the compact enacted in section 89290
4510.71 of the Revised Code. ~~In addition, each deputy registrar 89291~~
~~shall collect a service fee of ten dollars to compensate the 89292~~
~~deputy registrar for services performed under this section. The 89293~~
~~deputy registrar shall retain eight dollars of the service fee and 89294~~
~~shall transmit the reinstatement fee, plus two dollars of the 89295~~
~~service fee, to the registrar in the manner the registrar shall 89296~~
~~determine. 89297~~

(B) Pursuant to division (A) of Article VI of the nonresident 89298
violin compact of 1977 enacted in section 4510.71 of the Revised 89299
Code, the director of public safety shall serve as the compact 89300
administrator for Ohio. 89301

Sec. 4511.191. (A)(1) As used in this section: 89302

(a) "Physical control" has the same meaning as in section 89303
4511.194 of the Revised Code. 89304

(b) "Alcohol monitoring device" means any device that 89305
provides for continuous alcohol monitoring, any ignition interlock 89306
device, any immobilizing or disabling device other than an 89307
ignition interlock device that is constantly available to monitor 89308
the concentration of alcohol in a person's system, or any other 89309
device that provides for the automatic testing and periodic 89310
reporting of alcohol consumption by a person and that a court 89311
orders a person to use as a sanction imposed as a result of the 89312
person's conviction of or plea of guilty to an offense. 89313

(2) Any person who operates a vehicle, streetcar, or 89314
trackless trolley upon a highway or any public or private property 89315
used by the public for vehicular travel or parking within this 89316
state or who is in physical control of a vehicle, streetcar, or 89317
trackless trolley shall be deemed to have given consent to a 89318
chemical test or tests of the person's whole blood, blood serum or 89319

plasma, breath, or urine to determine the alcohol, drug of abuse, 89320
controlled substance, metabolite of a controlled substance, or 89321
combination content of the person's whole blood, blood serum or 89322
plasma, breath, or urine if arrested for a violation of division 89323
(A) or (B) of section 4511.19 of the Revised Code, section 89324
4511.194 of the Revised Code or a substantially equivalent 89325
municipal ordinance, or a municipal OVI ordinance. 89326

(3) The chemical test or tests under division (A)(2) of this 89327
section shall be administered at the request of a law enforcement 89328
officer having reasonable grounds to believe the person was 89329
operating or in physical control of a vehicle, streetcar, or 89330
trackless trolley in violation of a division, section, or 89331
ordinance identified in division (A)(2) of this section. The law 89332
enforcement agency by which the officer is employed shall 89333
designate which of the tests shall be administered. 89334

(4) Any person who is dead or unconscious, or who otherwise 89335
is in a condition rendering the person incapable of refusal, shall 89336
be deemed to have consented as provided in division (A)(2) of this 89337
section, and the test or tests may be administered, subject to 89338
sections 313.12 to 313.16 of the Revised Code. 89339

(5)(a) If a law enforcement officer arrests a person for a 89340
violation of division (A) or (B) of section 4511.19 of the Revised 89341
Code, section 4511.194 of the Revised Code or a substantially 89342
equivalent municipal ordinance, or a municipal OVI ordinance and 89343
if the person if convicted would be required to be sentenced under 89344
division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised 89345
Code, the law enforcement officer shall request the person to 89346
submit, and the person shall submit, to a chemical test or tests 89347
of the person's whole blood, blood serum or plasma, breath, or 89348
urine for the purpose of determining the alcohol, drug of abuse, 89349
controlled substance, metabolite of a controlled substance, or 89350
combination content of the person's whole blood, blood serum or 89351

plasma, breath, or urine. A law enforcement officer who makes a request pursuant to this division that a person submit to a chemical test or tests is not required to advise the person of the consequences of submitting to, or refusing to submit to, the test or tests and is not required to give the person the form described in division (B) of section 4511.192 of the Revised Code, but the officer shall advise the person at the time of the arrest that if the person refuses to take a chemical test the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. The officer shall also advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. Divisions (A)(3) and (4) of this section apply to the administration of a chemical test or tests pursuant to this division.

(b) If a person refuses to submit to a chemical test upon a request made pursuant to division (A)(5)(a) of this section, the law enforcement officer who made the request may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. A law enforcement officer who acts pursuant to this division to ensure that a person submits to a chemical test of the person's whole blood or blood serum or plasma is immune from criminal and civil liability based upon a claim for assault and battery or any other claim for the acts, unless the officer so acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(B)(1) Upon receipt of the sworn report of a law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance that was completed and

sent to the registrar of motor vehicles and a court pursuant to 89384
section 4511.192 of the Revised Code in regard to a person who 89385
refused to take the designated chemical test, the registrar shall 89386
enter into the registrar's records the fact that the person's 89387
driver's or commercial driver's license or permit or nonresident 89388
operating privilege was suspended by the arresting officer under 89389
this division and that section and the period of the suspension, 89390
as determined under this section. The suspension shall be subject 89391
to appeal as provided in section 4511.197 of the Revised Code. The 89392
suspension shall be for whichever of the following periods 89393
applies: 89394

(a) Except when division (B)(1)(b), (c), or (d) of this 89395
section applies and specifies a different class or length of 89396
suspension, the suspension shall be a class C suspension for the 89397
period of time specified in division (B)(3) of section 4510.02 of 89398
the Revised Code. 89399

(b) If the arrested person, within six years of the date on 89400
which the person refused the request to consent to the chemical 89401
test, had refused one previous request to consent to a chemical 89402
test or had been convicted of or pleaded guilty to one violation 89403
of division (A) or (B) of section 4511.19 of the Revised Code or 89404
one other equivalent offense, the suspension shall be a class B 89405
suspension imposed for the period of time specified in division 89406
(B)(2) of section 4510.02 of the Revised Code. 89407

(c) If the arrested person, within six years of the date on 89408
which the person refused the request to consent to the chemical 89409
test, had refused two previous requests to consent to a chemical 89410
test, had been convicted of or pleaded guilty to two violations of 89411
division (A) or (B) of section 4511.19 of the Revised Code or 89412
other equivalent offenses, or had refused one previous request to 89413
consent to a chemical test and also had been convicted of or 89414
pleaded guilty to one violation of division (A) or (B) of section 89415

4511.19 of the Revised Code or other equivalent offenses, which 89416
violation or offense arose from an incident other than the 89417
incident that led to the refusal, the suspension shall be a class 89418
A suspension imposed for the period of time specified in division 89419
(B)(1) of section 4510.02 of the Revised Code. 89420

(d) If the arrested person, within six years of the date on 89421
which the person refused the request to consent to the chemical 89422
test, had refused three or more previous requests to consent to a 89423
chemical test, had been convicted of or pleaded guilty to three or 89424
more violations of division (A) or (B) of section 4511.19 of the 89425
Revised Code or other equivalent offenses, or had refused a number 89426
of previous requests to consent to a chemical test and also had 89427
been convicted of or pleaded guilty to a number of violations of 89428
division (A) or (B) of section 4511.19 of the Revised Code or 89429
other equivalent offenses that cumulatively total three or more 89430
such refusals, convictions, and guilty pleas, the suspension shall 89431
be for five years. 89432

(2) The registrar shall terminate a suspension of the 89433
driver's or commercial driver's license or permit of a resident or 89434
of the operating privilege of a nonresident, or a denial of a 89435
driver's or commercial driver's license or permit, imposed 89436
pursuant to division (B)(1) of this section upon receipt of notice 89437
that the person has entered a plea of guilty to, or that the 89438
person has been convicted after entering a plea of no contest to, 89439
operating a vehicle in violation of section 4511.19 of the Revised 89440
Code or in violation of a municipal OVI ordinance, if the offense 89441
for which the conviction is had or the plea is entered arose from 89442
the same incident that led to the suspension or denial. 89443

The registrar shall credit against any judicial suspension of 89444
a person's driver's or commercial driver's license or permit or 89445
nonresident operating privilege imposed pursuant to section 89446
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 89447

Revised Code for a violation of a municipal OVI ordinance, any 89448
time during which the person serves a related suspension imposed 89449
pursuant to division (B)(1) of this section. 89450

(C)(1) Upon receipt of the sworn report of the law 89451
enforcement officer who arrested a person for a violation of 89452
division (A) or (B) of section 4511.19 of the Revised Code or a 89453
municipal OVI ordinance that was completed and sent to the 89454
registrar and a court pursuant to section 4511.192 of the Revised 89455
Code in regard to a person whose test results indicate that the 89456
person's whole blood, blood serum or plasma, breath, or urine 89457
contained at least the concentration of alcohol specified in 89458
division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the 89459
Revised Code or at least the concentration of a listed controlled 89460
substance or a listed metabolite of a controlled substance 89461
specified in division (A)(1)(j) of section 4511.19 of the Revised 89462
Code, the registrar shall enter into the registrar's records the 89463
fact that the person's driver's or commercial driver's license or 89464
permit or nonresident operating privilege was suspended by the 89465
arresting officer under this division and section 4511.192 of the 89466
Revised Code and the period of the suspension, as determined under 89467
divisions (C)(1)(a) to (d) of this section. The suspension shall 89468
be subject to appeal as provided in section 4511.197 of the 89469
Revised Code. The suspension described in this division does not 89470
apply to, and shall not be imposed upon, a person arrested for a 89471
violation of section 4511.194 of the Revised Code or a 89472
substantially equivalent municipal ordinance who submits to a 89473
designated chemical test. The suspension shall be for whichever of 89474
the following periods applies: 89475

(a) Except when division (C)(1)(b), (c), or (d) of this 89476
section applies and specifies a different period, the suspension 89477
shall be a class E suspension imposed for the period of time 89478
specified in division (B)(5) of section 4510.02 of the Revised 89479

Code. 89480

(b) The suspension shall be a class C suspension for the 89481
period of time specified in division (B)(3) of section 4510.02 of 89482
the Revised Code if the person has been convicted of or pleaded 89483
guilty to, within six years of the date the test was conducted, 89484
one violation of division (A) or (B) of section 4511.19 of the 89485
Revised Code or one other equivalent offense. 89486

(c) If, within six years of the date the test was conducted, 89487
the person has been convicted of or pleaded guilty to two 89488
violations of a statute or ordinance described in division 89489
(C)(1)(b) of this section, the suspension shall be a class B 89490
suspension imposed for the period of time specified in division 89491
(B)(2) of section 4510.02 of the Revised Code. 89492

(d) If, within six years of the date the test was conducted, 89493
the person has been convicted of or pleaded guilty to more than 89494
two violations of a statute or ordinance described in division 89495
(C)(1)(b) of this section, the suspension shall be a class A 89496
suspension imposed for the period of time specified in division 89497
(B)(1) of section 4510.02 of the Revised Code. 89498

(2) The registrar shall terminate a suspension of the 89499
driver's or commercial driver's license or permit of a resident or 89500
of the operating privilege of a nonresident, or a denial of a 89501
driver's or commercial driver's license or permit, imposed 89502
pursuant to division (C)(1) of this section upon receipt of notice 89503
that the person has entered a plea of guilty to, or that the 89504
person has been convicted after entering a plea of no contest to, 89505
operating a vehicle in violation of section 4511.19 of the Revised 89506
Code or in violation of a municipal OVI ordinance, if the offense 89507
for which the conviction is had or the plea is entered arose from 89508
the same incident that led to the suspension or denial. 89509

The registrar shall credit against any judicial suspension of 89510

a person's driver's or commercial driver's license or permit or 89511
nonresident operating privilege imposed pursuant to section 89512
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 89513
Revised Code for a violation of a municipal OVI ordinance, any 89514
time during which the person serves a related suspension imposed 89515
pursuant to division (C)(1) of this section. 89516

(D)(1) A suspension of a person's driver's or commercial 89517
driver's license or permit or nonresident operating privilege 89518
under this section for the time described in division (B) or (C) 89519
of this section is effective immediately from the time at which 89520
the arresting officer serves the notice of suspension upon the 89521
arrested person. Any subsequent finding that the person is not 89522
guilty of the charge that resulted in the person being requested 89523
to take the chemical test or tests under division (A) of this 89524
section does not affect the suspension. 89525

(2) If a person is arrested for operating a vehicle, 89526
streetcar, or trackless trolley in violation of division (A) or 89527
(B) of section 4511.19 of the Revised Code or a municipal OVI 89528
ordinance, or for being in physical control of a vehicle, 89529
streetcar, or trackless trolley in violation of section 4511.194 89530
of the Revised Code or a substantially equivalent municipal 89531
ordinance, regardless of whether the person's driver's or 89532
commercial driver's license or permit or nonresident operating 89533
privilege is or is not suspended under division (B) or (C) of this 89534
section or Chapter 4510. of the Revised Code, the person's initial 89535
appearance on the charge resulting from the arrest shall be held 89536
within five days of the person's arrest or the issuance of the 89537
citation to the person, subject to any continuance granted by the 89538
court pursuant to section 4511.197 of the Revised Code regarding 89539
the issues specified in that division. 89540

(E) When it finally has been determined under the procedures 89541
of this section and sections 4511.192 to 4511.197 of the Revised 89542

Code that a nonresident's privilege to operate a vehicle within 89543
this state has been suspended, the registrar shall give 89544
information in writing of the action taken to the motor vehicle 89545
administrator of the state of the person's residence and of any 89546
state in which the person has a license. 89547

(F) At the end of a suspension period under this section, 89548
under section 4511.194, section 4511.196, or division (G) of 89549
section 4511.19 of the Revised Code, or under section 4510.07 of 89550
the Revised Code for a violation of a municipal OVI ordinance and 89551
upon the request of the person whose driver's or commercial 89552
driver's license or permit was suspended and who is not otherwise 89553
subject to suspension, cancellation, or disqualification, the 89554
registrar shall return the driver's or commercial driver's license 89555
or permit to the person upon the occurrence of all of the 89556
conditions specified in divisions (F)(1) and (2) of this section: 89557

(1) A showing that the person has proof of financial 89558
responsibility, a policy of liability insurance in effect that 89559
meets the minimum standards set forth in section 4509.51 of the 89560
Revised Code, or proof, to the satisfaction of the registrar, that 89561
the person is able to respond in damages in an amount at least 89562
equal to the minimum amounts specified in section 4509.51 of the 89563
Revised Code. 89564

(2) Subject to the limitation contained in division (F)(3) of 89565
this section, payment by the person to the registrar ~~of motor~~ 89566
~~vehicles or an eligible deputy registrar~~ of a license 89567
reinstatement fee of four hundred seventy-five dollars, which fee 89568
shall be deposited in the state treasury and credited as follows: 89569

(a) One hundred twelve dollars and fifty cents shall be 89570
credited to the statewide treatment and prevention fund created by 89571
section 4301.30 of the Revised Code. The Money credited to the 89572
fund under this section shall be used ~~to pay the costs of driver~~ 89573
~~treatment and intervention programs operated pursuant to sections~~ 89574

~~3793.02 and 3793.10 for purposes identified in the comprehensive
statewide alcohol and drug addiction services plan developed under
section 3793.04 of the Revised Code. The director of alcohol and
drug addiction services shall determine the share of the fund that
is to be allocated to alcohol and drug addiction programs
authorized by section 3793.02 of the Revised Code, and the share
of the fund that is to be allocated to drivers' intervention
programs authorized by section 3793.10 of the Revised Code.~~

(b) Seventy-five dollars shall be credited to the reparations
fund created by section 2743.191 of the Revised Code.

(c) Thirty-seven dollars and fifty cents shall be credited to
the indigent drivers alcohol treatment fund, which is hereby
established in the state treasury. Except as otherwise provided in
division (F)(2)(c) of this section, moneys in the fund shall be
distributed by the department of alcohol and drug addiction
services to the county indigent drivers alcohol treatment funds,
the county juvenile indigent drivers alcohol treatment funds, and
the municipal indigent drivers alcohol treatment funds that are
required to be established by counties and municipal corporations
pursuant to division (H) of this section, and shall be used only
to pay the cost of an alcohol and drug addiction treatment program
attended by an offender or juvenile traffic offender who is
ordered to attend an alcohol and drug addiction treatment program
by a county, juvenile, or municipal court judge and who is
determined by the county, juvenile, or municipal court judge not
to have the means to pay for the person's attendance at the
program or to pay the costs specified in division (H)(4) of this
section in accordance with that division. In addition, a county,
juvenile, or municipal court judge may use moneys in the county
indigent drivers alcohol treatment fund, county juvenile indigent
drivers alcohol treatment fund, or municipal indigent drivers
alcohol treatment fund to pay for the cost of the continued use of

an alcohol monitoring device as described in divisions (H)(3) and 89607
(4) of this section. Moneys in the fund that are not distributed 89608
to a county indigent drivers alcohol treatment fund, a county 89609
juvenile indigent drivers alcohol treatment fund, or a municipal 89610
indigent drivers alcohol treatment fund under division (H) of this 89611
section because the director of alcohol and drug addiction 89612
services does not have the information necessary to identify the 89613
county or municipal corporation where the offender or juvenile 89614
offender was arrested may be transferred by the director of budget 89615
and management to the statewide treatment and prevention fund 89616
created by section 4301.30 of the Revised Code, upon certification 89617
of the amount by the director of alcohol and drug addiction 89618
services. 89619

(d) Seventy-five dollars shall be credited to the Ohio 89620
rehabilitation services commission established by section 3304.12 89621
of the Revised Code, to the services for rehabilitation fund, 89622
which is hereby established. The fund shall be used to match 89623
available federal matching funds where appropriate, and for any 89624
other purpose or program of the commission to rehabilitate people 89625
with disabilities to help them become employed and independent. 89626

(e) Seventy-five dollars shall be deposited into the state 89627
treasury and credited to the drug abuse resistance education 89628
programs fund, which is hereby established, to be used by the 89629
attorney general for the purposes specified in division (F)(4) of 89630
this section. 89631

(f) Thirty dollars shall be credited to the state bureau of 89632
motor vehicles fund created by section 4501.25 of the Revised 89633
Code. 89634

(g) Twenty dollars shall be credited to the trauma and 89635
emergency medical services grants fund created by section 4513.263 89636
of the Revised Code. 89637

(h) Fifty dollars shall be credited to the indigent drivers 89638
interlock and alcohol monitoring fund, which is hereby established 89639
in the state treasury. ~~Monies~~ Moneys in the fund shall be 89640
distributed by the department of public safety to the county 89641
indigent drivers interlock and alcohol monitoring funds, the 89642
county juvenile indigent drivers interlock and alcohol monitoring 89643
funds, and the municipal indigent drivers interlock and alcohol 89644
monitoring funds that are required to be established by counties 89645
and municipal corporations pursuant to this section, and shall be 89646
used only to pay the cost of an immobilizing or disabling device, 89647
including a certified ignition interlock device, or an alcohol 89648
monitoring device used by an offender or juvenile offender who is 89649
ordered to use the device by a county, juvenile, or municipal 89650
court judge and who is determined by the county, juvenile, or 89651
municipal court judge not to have the means to pay for the 89652
person's use of the device. 89653

(3) If a person's driver's or commercial driver's license or 89654
permit is suspended under this section, under section 4511.196 or 89655
division (G) of section 4511.19 of the Revised Code, under section 89656
4510.07 of the Revised Code for a violation of a municipal OVI 89657
ordinance or under any combination of the suspensions described in 89658
division (F)(3) of this section, and if the suspensions arise from 89659
a single incident or a single set of facts and circumstances, the 89660
person is liable for payment of, and shall be required to pay to 89661
the registrar ~~or an eligible deputy registrar~~, only one 89662
reinstatement fee of four hundred seventy-five dollars. The 89663
reinstatement fee shall be distributed by the bureau in accordance 89664
with division (F)(2) of this section. 89665

(4) The attorney general shall use amounts in the drug abuse 89666
resistance education programs fund to award grants to law 89667
enforcement agencies to establish and implement drug abuse 89668
resistance education programs in public schools. Grants awarded to 89669

a law enforcement agency under this section shall be used by the 89670
agency to pay for not more than fifty per cent of the amount of 89671
the salaries of law enforcement officers who conduct drug abuse 89672
resistance education programs in public schools. The attorney 89673
general shall not use more than six per cent of the amounts the 89674
attorney general's office receives under division (F)(2)(e) of 89675
this section to pay the costs it incurs in administering the grant 89676
program established by division (F)(2)(e) of this section and in 89677
providing training and materials relating to drug abuse resistance 89678
education programs. 89679

The attorney general shall report to the governor and the 89680
general assembly each fiscal year on the progress made in 89681
establishing and implementing drug abuse resistance education 89682
programs. These reports shall include an evaluation of the 89683
effectiveness of these programs. 89684

~~(5) In addition to the reinstatement fee under this section, 89685
if the person pays the reinstatement fee to a deputy registrar, 89686
the deputy registrar shall collect a service fee of ten dollars to 89687
compensate the deputy registrar for services performed under this 89688
section. The deputy registrar shall retain eight dollars of the 89689
service fee and shall transmit the reinstatement fee, plus two 89690
dollars of the service fee, to the registrar in the manner the 89691
registrar shall determine. 89692~~

(G) Suspension of a commercial driver's license under 89693
division (B) or (C) of this section shall be concurrent with any 89694
period of disqualification under section 3123.611 or 4506.16 of 89695
the Revised Code or any period of suspension under section 3123.58 89696
of the Revised Code. No person who is disqualified for life from 89697
holding a commercial driver's license under section 4506.16 of the 89698
Revised Code shall be issued a driver's license under Chapter 89699
4507. of the Revised Code during the period for which the 89700
commercial driver's license was suspended under division (B) or 89701

(C) of this section. No person whose commercial driver's license 89702
is suspended under division (B) or (C) of this section shall be 89703
issued a driver's license under Chapter 4507. of the Revised Code 89704
during the period of the suspension. 89705

(H)(1) Each county shall establish an indigent drivers 89706
alcohol treatment fund, each county shall establish a juvenile 89707
indigent drivers alcohol treatment fund, and each municipal 89708
corporation in which there is a municipal court shall establish an 89709
indigent drivers alcohol treatment fund. All revenue that the 89710
general assembly appropriates to the indigent drivers alcohol 89711
treatment fund for transfer to a county indigent drivers alcohol 89712
treatment fund, a county juvenile indigent drivers alcohol 89713
treatment fund, or a municipal indigent drivers alcohol treatment 89714
fund, all portions of fees that are paid under division (F) of 89715
this section and that are credited under that division to the 89716
indigent drivers alcohol treatment fund in the state treasury for 89717
a county indigent drivers alcohol treatment fund, a county 89718
juvenile indigent drivers alcohol treatment fund, or a municipal 89719
indigent drivers alcohol treatment fund, all portions of 89720
additional costs imposed under section 2949.094 of the Revised 89721
Code that are specified for deposit into a county, county 89722
juvenile, or municipal indigent drivers alcohol treatment fund by 89723
that section, and all portions of fines that are specified for 89724
deposit into a county or municipal indigent drivers alcohol 89725
treatment fund by section 4511.193 of the Revised Code shall be 89726
deposited into that county indigent drivers alcohol treatment 89727
fund, county juvenile indigent drivers alcohol treatment fund, or 89728
municipal indigent drivers alcohol treatment fund. The portions of 89729
the fees paid under division (F) of this section that are to be so 89730
deposited shall be determined in accordance with division (H)(2) 89731
of this section. Additionally, all portions of fines that are paid 89732
for a violation of section 4511.19 of the Revised Code or of any 89733
prohibition contained in Chapter 4510. of the Revised Code, and 89734

that are required under section 4511.19 or any provision of 89735
Chapter 4510. of the Revised Code to be deposited into a county 89736
indigent drivers alcohol treatment fund or municipal indigent 89737
drivers alcohol treatment fund shall be deposited into the 89738
appropriate fund in accordance with the applicable division of the 89739
section or provision. 89740

(2) That portion of the license reinstatement fee that is 89741
paid under division (F) of this section and that is credited under 89742
that division to the indigent drivers alcohol treatment fund shall 89743
be deposited into a county indigent drivers alcohol treatment 89744
fund, a county juvenile indigent drivers alcohol treatment fund, 89745
or a municipal indigent drivers alcohol treatment fund as follows: 89746

(a) Regarding a suspension imposed under this section, that 89747
portion of the fee shall be deposited as follows: 89748

(i) If the fee is paid by a person who was charged in a 89749
county court with the violation that resulted in the suspension or 89750
in the imposition of the court costs, the portion shall be 89751
deposited into the county indigent drivers alcohol treatment fund 89752
under the control of that court; 89753

(ii) If the fee is paid by a person who was charged in a 89754
juvenile court with the violation that resulted in the suspension 89755
or in the imposition of the court costs, the portion shall be 89756
deposited into the county juvenile indigent drivers alcohol 89757
treatment fund established in the county served by the court; 89758

(iii) If the fee is paid by a person who was charged in a 89759
municipal court with the violation that resulted in the suspension 89760
or in the imposition of the court costs, the portion shall be 89761
deposited into the municipal indigent drivers alcohol treatment 89762
fund under the control of that court. 89763

(b) Regarding a suspension imposed under section 4511.19 of 89764
the Revised Code or under section 4510.07 of the Revised Code for 89765

a violation of a municipal OVI ordinance, that portion of the fee 89766
shall be deposited as follows: 89767

(i) If the fee is paid by a person whose license or permit 89768
was suspended by a county court, the portion shall be deposited 89769
into the county indigent drivers alcohol treatment fund under the 89770
control of that court; 89771

(ii) If the fee is paid by a person whose license or permit 89772
was suspended by a municipal court, the portion shall be deposited 89773
into the municipal indigent drivers alcohol treatment fund under 89774
the control of that court. 89775

(3) Expenditures from a county indigent drivers alcohol 89776
treatment fund, a county juvenile indigent drivers alcohol 89777
treatment fund, or a municipal indigent drivers alcohol treatment 89778
fund shall be made only upon the order of a county, juvenile, or 89779
municipal court judge and only for payment of the cost of an 89780
assessment or the cost of the attendance at an alcohol and drug 89781
addiction treatment program of a person who is convicted of, or 89782
found to be a juvenile traffic offender by reason of, a violation 89783
of division (A) of section 4511.19 of the Revised Code or a 89784
substantially similar municipal ordinance, who is ordered by the 89785
court to attend the alcohol and drug addiction treatment program, 89786
and who is determined by the court to be unable to pay the cost of 89787
the assessment or the cost of attendance at the treatment program 89788
or for payment of the costs specified in division (H)(4) of this 89789
section in accordance with that division. The alcohol and drug 89790
addiction services board or the board of alcohol, drug addiction, 89791
and mental health services established pursuant to section 340.02 89792
or 340.021 of the Revised Code and serving the alcohol, drug 89793
addiction, and mental health service district in which the court 89794
is located shall administer the indigent drivers alcohol treatment 89795
program of the court. When a court orders an offender or juvenile 89796
traffic offender to obtain an assessment or attend an alcohol and 89797

drug addiction treatment program, the board shall determine which 89798
program is suitable to meet the needs of the offender or juvenile 89799
traffic offender, and when a suitable program is located and space 89800
is available at the program, the offender or juvenile traffic 89801
offender shall attend the program designated by the board. A 89802
reasonable amount not to exceed five per cent of the amounts 89803
credited to and deposited into the county indigent drivers alcohol 89804
treatment fund, the county juvenile indigent drivers alcohol 89805
treatment fund, or the municipal indigent drivers alcohol 89806
treatment fund serving every court whose program is administered 89807
by that board shall be paid to the board to cover the costs it 89808
incurs in administering those indigent drivers alcohol treatment 89809
programs. 89810

In addition, upon exhaustion of moneys in the indigent 89811
drivers interlock and alcohol monitoring fund for the use of an 89812
alcohol monitoring device, a county, juvenile, or municipal court 89813
judge may use moneys in the county indigent drivers alcohol 89814
treatment fund, county juvenile indigent drivers alcohol treatment 89815
fund, or municipal indigent drivers alcohol treatment fund in the 89816
following manners: 89817

(a) If the source of the moneys was an appropriation of the 89818
general assembly, a portion of a fee that was paid under division 89819
(F) of this section, a portion of a fine that was specified for 89820
deposit into the fund by section 4511.193 of the Revised Code, or 89821
a portion of a fine that was paid for a violation of section 89822
4511.19 of the Revised Code or of a provision contained in Chapter 89823
4510. of the Revised Code that was required to be deposited into 89824
the fund, to pay for the continued use of an alcohol monitoring 89825
device by an offender or juvenile traffic offender, in conjunction 89826
with a treatment program approved by the department of alcohol and 89827
drug addiction services, when such use is determined clinically 89828
necessary by the treatment program and when the court determines 89829

that the offender or juvenile traffic offender is unable to pay 89830
all or part of the daily monitoring or cost of the device; 89831

(b) If the source of the moneys was a portion of an 89832
additional court cost imposed under section 2949.094 of the 89833
Revised Code, to pay for the continued use of an alcohol 89834
monitoring device by an offender or juvenile traffic offender when 89835
the court determines that the offender or juvenile traffic 89836
offender is unable to pay all or part of the daily monitoring or 89837
cost of the device. The moneys may be used for a device as 89838
described in this division if the use of the device is in 89839
conjunction with a treatment program approved by the department of 89840
alcohol and drug addiction services, when the use of the device is 89841
determined clinically necessary by the treatment program, but the 89842
use of a device is not required to be in conjunction with a 89843
treatment program approved by the department in order for the 89844
moneys to be used for the device as described in this division. 89845

(4) If a county, juvenile, or municipal court determines, in 89846
consultation with the alcohol and drug addiction services board or 89847
the board of alcohol, drug addiction, and mental health services 89848
established pursuant to section 340.02 or 340.021 of the Revised 89849
Code and serving the alcohol, drug addiction, and mental health 89850
district in which the court is located, that the funds in the 89851
county indigent drivers alcohol treatment fund, the county 89852
juvenile indigent drivers alcohol treatment fund, or the municipal 89853
indigent drivers alcohol treatment fund under the control of the 89854
court are more than sufficient to satisfy the purpose for which 89855
the fund was established, as specified in divisions (H)(1) to (3) 89856
of this section, the court may declare a surplus in the fund. If 89857
the court declares a surplus in the fund, the court may expend the 89858
amount of the surplus in the fund for: 89859

(a) Alcohol and drug abuse assessment and treatment of 89860
persons who are charged in the court with committing a criminal 89861

offense or with being a delinquent child or juvenile traffic 89862
offender and in relation to whom both of the following apply: 89863

(i) The court determines that substance abuse was a 89864
contributing factor leading to the criminal or delinquent activity 89865
or the juvenile traffic offense with which the person is charged. 89866

(ii) The court determines that the person is unable to pay 89867
the cost of the alcohol and drug abuse assessment and treatment 89868
for which the surplus money will be used. 89869

(b) All or part of the cost of purchasing alcohol monitoring 89870
devices to be used in conjunction with division (H)(3) of this 89871
section, upon exhaustion of moneys in the indigent drivers 89872
interlock and alcohol monitoring fund for the use of an alcohol 89873
monitoring device. 89874

(5) For the purpose of determining as described in division 89875
(F)(2)(c) of this section whether an offender does not have the 89876
means to pay for the offender's attendance at an alcohol and drug 89877
addiction treatment program or whether an alleged offender or 89878
delinquent child is unable to pay the costs specified in division 89879
(H)(4) of this section, the court shall use the indigent client 89880
eligibility guidelines and the standards of indigency established 89881
by the state public defender to make the determination. 89882

(6) The court shall identify and refer any alcohol and drug 89883
addiction program that is not certified under section 3793.06 of 89884
the Revised Code and that is interested in receiving amounts from 89885
the surplus in the fund declared under division (H)(4) of this 89886
section to the department of alcohol and drug addiction services 89887
in order for the program to become a certified alcohol and drug 89888
addiction program. The department shall keep a record of applicant 89889
referrals received pursuant to this division and shall submit a 89890
report on the referrals each year to the general assembly. If a 89891
program interested in becoming certified makes an application to 89892

become certified pursuant to section 3793.06 of the Revised Code, 89893
the program is eligible to receive surplus funds as long as the 89894
application is pending with the department. The department of 89895
alcohol and drug addiction services must offer technical 89896
assistance to the applicant. If the interested program withdraws 89897
the certification application, the department must notify the 89898
court, and the court shall not provide the interested program with 89899
any further surplus funds. 89900

(7)(a) Each alcohol and drug addiction services board and 89901
board of alcohol, drug addiction, and mental health services 89902
established pursuant to section 340.02 or 340.021 of the Revised 89903
Code shall submit to the department of alcohol and drug addiction 89904
services an annual report for each indigent drivers alcohol 89905
treatment fund in that board's area. 89906

(b) The report, which shall be submitted not later than sixty 89907
days after the end of the state fiscal year, shall provide the 89908
total payment that was made from the fund, including the number of 89909
indigent consumers that received treatment services and the number 89910
of indigent consumers that received an alcohol monitoring device. 89911
The report shall identify the treatment program and expenditure 89912
for an alcohol monitoring device for which that payment was made. 89913
The report shall include the fiscal year balance of each indigent 89914
drivers alcohol treatment fund located in that board's area. In 89915
the event that a surplus is declared in the fund pursuant to 89916
division (H)(4) of this section, the report also shall provide the 89917
total payment that was made from the surplus moneys and identify 89918
the treatment program and expenditure for an alcohol monitoring 89919
device for which that payment was made. The department may require 89920
additional information necessary to complete the comprehensive 89921
statewide alcohol and drug addiction services plan as required by 89922
section 3793.04 of the Revised Code. 89923

(c) If a board is unable to obtain adequate information to 89924

develop the report to submit to the department for a particular 89925
indigent drivers alcohol treatment fund, the board shall submit a 89926
report detailing the effort made in obtaining the information. 89927

(I)(1) Each county shall establish an indigent drivers 89928
interlock and alcohol monitoring fund and a juvenile indigent 89929
drivers interlock and alcohol treatment fund, and each municipal 89930
corporation in which there is a municipal court shall establish an 89931
indigent drivers interlock and alcohol monitoring fund. All 89932
revenue that the general assembly appropriates to the indigent 89933
drivers interlock and alcohol monitoring fund for transfer to a 89934
county indigent drivers interlock and alcohol monitoring fund, a 89935
county juvenile indigent drivers interlock and alcohol monitoring 89936
fund, or a municipal indigent drivers interlock and alcohol 89937
monitoring fund, all portions of license reinstatement fees that 89938
are paid under division (F)(2) of this section and that are 89939
credited under that division to the indigent drivers interlock and 89940
alcohol monitoring fund in the state treasury, and all portions of 89941
fines that are paid under division (G) of section 4511.19 of the 89942
Revised Code and that are credited by division (G)(5)(e) of that 89943
section to the indigent drivers interlock and alcohol monitoring 89944
fund in the state treasury shall be deposited in the appropriate 89945
fund in accordance with division (I)(2) of this section. 89946

(2) That portion of the license reinstatement fee that is 89947
paid under division (F) of this section and that portion of the 89948
fine paid under division (G) of section 4511.19 of the Revised 89949
Code and that is credited under either division to the indigent 89950
drivers interlock and alcohol monitoring fund shall be deposited 89951
into a county indigent drivers interlock and alcohol monitoring 89952
fund, a county juvenile indigent drivers interlock and alcohol 89953
monitoring fund, or a municipal indigent drivers interlock and 89954
alcohol monitoring fund as follows: 89955

(a) If the fee or fine is paid by a person who was charged in 89956

a county court with the violation that resulted in the suspension 89957
or fine, the portion shall be deposited into the county indigent 89958
drivers interlock and alcohol monitoring fund under the control of 89959
that court. 89960

(b) If the fee or fine is paid by a person who was charged in 89961
a juvenile court with the violation that resulted in the 89962
suspension or fine, the portion shall be deposited into the county 89963
juvenile indigent drivers interlock and alcohol monitoring fund 89964
established in the county served by the court. 89965

(c) If the fee or fine is paid by a person who was charged in 89966
a municipal court with the violation that resulted in the 89967
suspension, the portion shall be deposited into the municipal 89968
indigent drivers interlock and alcohol monitoring fund under the 89969
control of that court. 89970

Sec. 4511.193. (A) Twenty-five dollars of any fine imposed 89971
for a violation of a municipal OVI ordinance shall be deposited 89972
into the municipal or county indigent drivers alcohol treatment 89973
fund created pursuant to division (H) of section 4511.191 of the 89974
Revised Code in accordance with this section and section 733.40, 89975
divisions (A) ~~and~~, (B), and (C) of section 1901.024, division (F) 89976
of section 1901.31, or division (C) of section 1907.20 of the 89977
Revised Code. Regardless of whether the fine is imposed by a 89978
municipal court, a mayor's court, or a juvenile court, if the fine 89979
was imposed for a violation of an ordinance of a municipal 89980
corporation that is within the jurisdiction of a county-operated 89981
municipal court or a municipal court that is not a county-operated 89982
municipal court, the twenty-five dollars that is subject to this 89983
section shall be deposited into the indigent drivers alcohol 89984
treatment fund of the county in which that municipal corporation 89985
is located if the municipal court that has jurisdiction over that 89986
municipal corporation is a county-operated municipal court or of 89987

the municipal corporation in which is located the municipal court 89988
that has jurisdiction over that municipal corporation if that 89989
municipal court is not a county-operated municipal court. 89990

Regardless of whether the fine is imposed by a county court, a 89991
mayor's court, or a juvenile court, if the fine was imposed for a 89992
violation of an ordinance of a municipal corporation that is 89993
within the jurisdiction of a county court, the twenty-five dollars 89994
that is subject to this section shall be deposited into the 89995
indigent drivers alcohol treatment fund of the county in which is 89996
located the county court that has jurisdiction over that municipal 89997
corporation. The deposit shall be made in accordance with section 89998
733.40, divisions (A) ~~and~~, (B), and (C) of section 1901.024, 89999
division (F) of section 1901.31, or division (C) of section 90000
1907.20 of the Revised Code. 90001

(B) Any court cost imposed as a result of a violation of a 90002
municipal ordinance that is a moving violation and designated for 90003
an indigent drivers alcohol treatment fund established pursuant to 90004
division (H) of section 4511.191 of the Revised Code shall be 90005
deposited into the municipal or county indigent drivers alcohol 90006
treatment fund created pursuant to division (H) of section 90007
4511.191 of the Revised Code in accordance with this section and 90008
section 733.40, divisions (A), (B), and (C) of section 1901.024, 90009
division (F) of section 1901.31, or division (C) of section 90010
1907.20 of the Revised Code. Regardless of whether the court cost 90011
is imposed by a municipal court, a mayor's court, or a juvenile 90012
court, if the court cost was imposed for a violation of an 90013
ordinance of a municipal corporation that is within the 90014
jurisdiction of a county-operated municipal court or a municipal 90015
court that is not a county-operated municipal court, the court 90016
cost that is subject to this section shall be deposited into the 90017
indigent drivers alcohol treatment fund of the county in which 90018
that municipal corporation is located if the municipal court that 90019

has jurisdiction over that municipal corporation is a 90020
county-operated municipal court or of the municipal corporation in 90021
which is located the municipal court that has jurisdiction over 90022
that municipal corporation if that municipal court is not a 90023
county-operated municipal court. Regardless of whether the court 90024
cost is imposed by a county court, a mayor's court, or a juvenile 90025
court, if the court cost was imposed for a violation of an 90026
ordinance of a municipal corporation that is within the 90027
jurisdiction of a county court, the court cost that is subject to 90028
this section shall be deposited into the indigent drivers alcohol 90029
treatment fund of the county in which is located the county court 90030
that has jurisdiction over that municipal corporation. The deposit 90031
shall be made in accordance with section 733.40, divisions (A), 90032
(B), and (C) of section 1901.024, division (F) of section 1901.31, 90033
or division (C) of section 1907.20 of the Revised Code. 90034

(C)(1) The requirements and sanctions imposed by divisions 90035
~~(B)~~(C)(1) and (2) of this section are an adjunct to and derive 90036
from the state's exclusive authority over the registration and 90037
titling of motor vehicles and do not comprise a part of the 90038
criminal sentence to be imposed upon a person who violates a 90039
municipal OVI ordinance. 90040

(2) If a person is convicted of or pleads guilty to a 90041
violation of a municipal OVI ordinance, if the vehicle the 90042
offender was operating at the time of the offense is registered in 90043
the offender's name, and if, within six years of the current 90044
offense, the offender has been convicted of or pleaded guilty to 90045
one or more violations of division (A) or (B) of section 4511.19 90046
of the Revised Code or one or more other equivalent offenses, the 90047
court, in addition to and independent of any sentence that it 90048
imposes upon the offender for the offense, shall do whichever of 90049
the following is applicable: 90050

(a) Except as otherwise provided in division ~~(B)~~(C)(2)(b) of 90051

this section, if, within six years of the current offense, the 90052
offender has been convicted of or pleaded guilty to one violation 90053
described in division ~~(B)~~(C)(2) of this section, the court shall 90054
order the immobilization for ninety days of that vehicle and the 90055
impoundment for ninety days of the license plates of that vehicle. 90056
The order for the immobilization and impoundment shall be issued 90057
and enforced in accordance with section 4503.233 of the Revised 90058
Code. 90059

(b) If, within six years of the current offense, the offender 90060
has been convicted of or pleaded guilty to two or more violations 90061
described in division ~~(B)~~(C)(2) of this section, or if the 90062
offender previously has been convicted of or pleaded guilty to a 90063
violation of division (A) of section 4511.19 of the Revised Code 90064
under circumstances in which the violation was a felony and 90065
regardless of when the violation and the conviction or guilty plea 90066
occurred, the court shall order the criminal forfeiture to the 90067
state of that vehicle. The order of criminal forfeiture shall be 90068
issued and enforced in accordance with section 4503.234 of the 90069
Revised Code. 90070

(D) As used in this section, "county-operated municipal 90071
court" has the same meaning as in section 1901.03 of the Revised 90072
Code. 90073

Sec. 4513.39. (A) The state highway patrol and sheriffs or 90074
their deputies shall exercise, to the exclusion of all other peace 90075
officers except within municipal corporations and except as 90076
specified in division (B) of this section and division (E) of 90077
section 2935.03 of the Revised Code, the power to make arrests for 90078
violations on all state highways, of sections 4503.11, 4503.21, 90079
4511.14 to 4511.16, 4511.20 to 4511.23, 4511.26 to 4511.40, 90080
4511.42 to 4511.48, 4511.58, 4511.59, 4511.62 to 4511.71, 4513.03 90081
to 4513.13, 4513.15 to 4513.22, 4513.24 to 4513.34, 4549.01, 90082

4549.08 to 4549.12, and 4549.62 of the Revised Code. 90083

(B) A member of the police force of a township police 90084
district created under section 505.48 of the Revised Code or of a 90085
joint police district created under section 505.482 of the Revised 90086
Code, and a township constable appointed pursuant to section 90087
509.01 of the Revised Code, who has received a certificate from 90088
the Ohio peace officer training commission under section 109.75 of 90089
the Revised Code, shall exercise the power to make arrests for 90090
violations of those sections listed in division (A) of this 90091
section, other than sections 4513.33 and 4513.34 of the Revised 90092
Code, as follows: 90093

(1) If the population of the township that created the 90094
township or joint police district served by the member's police 90095
force or the township that is served by the township constable is 90096
fifty thousand or less, the member or constable shall exercise 90097
that power on those portions of all state highways, except those 90098
highways included as part of the interstate system, as defined in 90099
section 5516.01 of the Revised Code, that are located within the 90100
township or joint police district, in the case of a member of a 90101
township or joint police district police force, or within the 90102
unincorporated territory of the township, in the case of a 90103
township constable; 90104

(2) If the population of the township that created the 90105
township or joint police district served by the member's police 90106
force or the township that is served by the township constable is 90107
greater than fifty thousand, the member or constable shall 90108
exercise that power on those portions of all state highways and 90109
highways included as part of the interstate highway system, as 90110
defined in section 5516.01 of the Revised Code, that are located 90111
within the township or joint police district, in the case of a 90112
member of a township or joint police district police force, or 90113
within the unincorporated territory of the township, in the case 90114

of a township constable. 90115

Sec. 4513.60. (A)(1) The sheriff of a county or chief of 90116
police of a municipal corporation, township, or township or joint 90117
police district, within the sheriff's or chief's respective 90118
territorial jurisdiction, upon complaint of any person adversely 90119
affected, may order into storage any motor vehicle, other than an 90120
abandoned junk motor vehicle as defined in section 4513.63 of the 90121
Revised Code, that has been left on private residential or private 90122
agricultural property for at least four hours without the 90123
permission of the person having the right to the possession of the 90124
property. The sheriff or chief of police, upon complaint of the 90125
owner of a repair garage or place of storage, may order into 90126
storage any motor vehicle, other than an abandoned junk motor 90127
vehicle, that has been left at the garage or place of storage for 90128
a longer period than that agreed upon. The place of storage shall 90129
be designated by the sheriff or chief of police. When ordering a 90130
motor vehicle into storage pursuant to this division, a sheriff or 90131
chief of police, whenever possible, shall arrange for the removal 90132
of the motor vehicle by a private tow truck operator or towing 90133
company. Subject to division (C) of this section, the owner of a 90134
motor vehicle that has been removed pursuant to this division may 90135
recover the vehicle only in accordance with division (E) of this 90136
section. 90137

(2) Divisions (A)(1) to (3) of this section do not apply to 90138
any private residential or private agricultural property that is 90139
established as a private tow-away zone in accordance with division 90140
(B) of this section. 90141

(3) As used in divisions (A)(1) and (2) of this section, 90142
"private residential property" means private property on which is 90143
located one or more structures that are used as a home, residence, 90144
or sleeping place by one or more persons, if no more than three 90145

separate households are maintained in the structure or structures. 90146
"Private residential property" does not include any private 90147
property on which is located one or more structures that are used 90148
as a home, residence, or sleeping place by two or more persons, if 90149
more than three separate households are maintained in the 90150
structure or structures. 90151

(B)(1) The owner of private property may establish a private 90152
tow-away zone only if all of the following conditions are 90153
satisfied: 90154

(a) The owner posts on the owner's property a sign, that is 90155
at least eighteen inches by twenty-four inches in size, that is 90156
visible from all entrances to the property, and that contains at 90157
least all of the following information: 90158

(i) A notice that the property is a private tow-away zone and 90159
that vehicles not authorized to park on the property will be towed 90160
away; 90161

(ii) The telephone number of the person from whom a 90162
towed-away vehicle can be recovered, and the address of the place 90163
to which the vehicle will be taken and the place from which it may 90164
be recovered; 90165

(iii) A statement that the vehicle may be recovered at any 90166
time during the day or night upon the submission of proof of 90167
ownership and the payment of a towing charge, in an amount not to 90168
exceed ninety dollars, and a storage charge, in an amount not to 90169
exceed twelve dollars per twenty-four-hour period; except that the 90170
charge for towing shall not exceed one hundred fifty dollars, and 90171
the storage charge shall not exceed twenty dollars per 90172
twenty-four-hour period, if the vehicle has a manufacturer's gross 90173
vehicle weight rating in excess of ten thousand pounds and is a 90174
truck, bus, or a combination of a commercial tractor and trailer 90175
or semitrailer. 90176

(b) The place to which the towed vehicle is taken and from which it may be recovered is conveniently located, is well lighted, and is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the private tow-away zone is located.

(2) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with division (B)(1) of this section, without the consent of the owner of the property or in violation of any posted parking condition or regulation, the owner or the owner's agent may remove, or cause the removal of, the vehicle, the owner and the operator of the vehicle shall be deemed to have consented to the removal and storage of the vehicle and to the payment of the towing and storage charges specified in division (B)(1)(a)(iii) of this section, and the owner, subject to division (C) of this section, may recover a vehicle that has been so removed only in accordance with division (E) of this section.

(3) If a municipal corporation requires tow trucks and tow truck operators to be licensed, no owner of private property located within the municipal corporation shall remove, or shall cause the removal and storage of, any vehicle pursuant to division (B)(2) of this section by an unlicensed tow truck or unlicensed tow truck operator.

(4) Divisions (B)(1) to (3) of this section do not affect or limit the operation of division (A) of this section or sections 4513.61 to 4513.65 of the Revised Code as they relate to property other than private property that is established as a private tow-away zone under division (B)(1) of this section.

(C) If the owner or operator of a motor vehicle that has been ordered into storage pursuant to division (A)(1) of this section

or of a vehicle that is being removed under authority of division 90209
(B)(2) of this section arrives after the motor vehicle or vehicle 90210
has been prepared for removal, but prior to its actual removal 90211
from the property, the owner or operator shall be given the 90212
opportunity to pay a fee of not more than one-half of the charge 90213
for the removal of motor vehicles under division (A)(1) of this 90214
section or of vehicles under division (B)(2) of this section, 90215
whichever is applicable, that normally is assessed by the person 90216
who has prepared the motor vehicle or vehicle for removal, in 90217
order to obtain release of the motor vehicle or vehicle. Upon 90218
payment of that fee, the motor vehicle or vehicle shall be 90219
released to the owner or operator, and upon its release, the owner 90220
or operator immediately shall move it so that: 90221

(1) If the motor vehicle was ordered into storage pursuant to 90222
division (A)(1) of this section, it is not on the private 90223
residential or private agricultural property without the 90224
permission of the person having the right to possession of the 90225
property, or is not at the garage or place of storage without the 90226
permission of the owner, whichever is applicable. 90227

(2) If the vehicle was being removed under authority of 90228
division (B)(2) of this section, it is not parked on the private 90229
property established as a private tow-away zone without the 90230
consent of the owner or in violation of any posted parking 90231
condition or regulation. 90232

(D)(1) If an owner of private property that is established as 90233
a private tow-away zone in accordance with division (B)(1) of this 90234
section or the authorized agent of such an owner removes or causes 90235
the removal of a vehicle from that property under authority of 90236
division (B)(2) of this section, the owner or agent promptly shall 90237
notify the police department of the municipal corporation, 90238
township, or township or joint police district in which the 90239
property is located, of the removal, the vehicle's license number, 90240

make, model, and color, the location from which it was removed, 90241
the date and time of its removal, the telephone number of the 90242
person from whom it may be recovered, and the address of the place 90243
to which it has been taken and from which it may be recovered. 90244

(2) Each county sheriff and each chief of police of a 90245
municipal corporation, township, or township or joint police 90246
district shall maintain a record of motor vehicles that the 90247
sheriff or chief orders into storage pursuant to division (A)(1) 90248
of this section and of vehicles removed from private property in 90249
the sheriff's or chief's jurisdiction that is established as a 90250
private tow-away zone of which the sheriff or chief has received 90251
notice under division (D)(1) of this section. The record shall 90252
include an entry for each such motor vehicle or vehicle that 90253
identifies the motor vehicle's or vehicle's license number, make, 90254
model, and color, the location from which it was removed, the date 90255
and time of its removal, the telephone number of the person from 90256
whom it may be recovered, and the address of the place to which it 90257
has been taken and from which it may be recovered. Any information 90258
in the record that pertains to a particular motor vehicle or 90259
vehicle shall be provided to any person who, either in person or 90260
pursuant to a telephone call, identifies self as the owner or 90261
operator of the motor vehicle or vehicle and requests information 90262
pertaining to its location. 90263

(3) Any person who registers a complaint that is the basis of 90264
a sheriff's or police chief's order for the removal and storage of 90265
a motor vehicle under division (A)(1) of this section shall 90266
provide the identity of the law enforcement agency with which the 90267
complaint was registered to any person who identifies self as the 90268
owner or operator of the motor vehicle and requests information 90269
pertaining to its location. 90270

(E) The owner of a motor vehicle that is ordered into storage 90271
pursuant to division (A)(1) of this section or of a vehicle that 90272

is removed under authority of division (B)(2) of this section may 90273
reclaim it upon payment of any expenses or charges incurred in its 90274
removal, in an amount not to exceed ninety dollars, and storage, 90275
in an amount not to exceed twelve dollars per twenty-four-hour 90276
period; except that the charge for towing shall not exceed one 90277
hundred fifty dollars, and the storage charge shall not exceed 90278
twenty dollars per twenty-four-hour period, if the vehicle has a 90279
manufacturer's gross vehicle weight rating in excess of ten 90280
thousand pounds and is a truck, bus, or a combination of a 90281
commercial tractor and trailer or semitrailer. Presentation of 90282
proof of ownership, which may be evidenced by a certificate of 90283
title to the motor vehicle or vehicle also shall be required for 90284
reclamation of the vehicle. If a motor vehicle that is ordered 90285
into storage pursuant to division (A)(1) of this section remains 90286
unclaimed by the owner for thirty days, the procedures established 90287
by sections 4513.61 and 4513.62 of the Revised Code shall apply. 90288

(F) No person shall remove, or cause the removal of, any 90289
vehicle from private property that is established as a private 90290
tow-away zone under division (B)(1) of this section other than in 90291
accordance with division (B)(2) of this section, and no person 90292
shall remove, or cause the removal of, any motor vehicle from any 90293
other private property other than in accordance with division 90294
(A)(1) of this section or sections 4513.61 to 4513.65 of the 90295
Revised Code. 90296

(G) Whoever violates division (B)(3) or (F) of this section 90297
is guilty of a minor misdemeanor. 90298

Sec. 4513.61. The sheriff of a county or chief of police of a 90299
municipal corporation, township, or township or joint police 90300
district, within the sheriff's or chief's respective territorial 90301
jurisdiction, or a state highway patrol trooper, upon notification 90302
to the sheriff or chief of police of such action and of the 90303

location of the place of storage, may order into storage any motor 90304
vehicle, including an abandoned junk motor vehicle as defined in 90305
section 4513.63 of the Revised Code, that has come into the 90306
possession of the sheriff, chief of police, or state highway 90307
patrol trooper as a result of the performance of the sheriff's, 90308
chief's, or trooper's duties or that has been left on a public 90309
street or other property open to the public for purposes of 90310
vehicular travel, or upon or within the right-of-way of any road 90311
or highway, for forty-eight hours or longer without notification 90312
to the sheriff or chief of police of the reasons for leaving the 90313
motor vehicle in such place, except that when such a motor vehicle 90314
constitutes an obstruction to traffic it may be ordered into 90315
storage immediately. The sheriff or chief of police shall 90316
designate the place of storage of any motor vehicle so ordered 90317
removed. 90318

The sheriff or chief of police immediately shall cause a 90319
search to be made of the records of the bureau of motor vehicles 90320
to ascertain the owner and any lienholder of a motor vehicle 90321
ordered into storage by the sheriff or chief of police, or by a 90322
state highway patrol trooper, and, if known, shall send or cause 90323
to be sent notice to the owner or lienholder at the owner's or 90324
lienholder's last known address by certified mail with return 90325
receipt requested, that the motor vehicle will be declared a 90326
nuisance and disposed of if not claimed within ten days of the 90327
date of mailing of the notice. The owner or lienholder of the 90328
motor vehicle may reclaim it upon payment of any expenses or 90329
charges incurred in its removal and storage, and presentation of 90330
proof of ownership, which may be evidenced by a certificate of 90331
title or memorandum certificate of title to the motor vehicle. If 90332
the owner or lienholder of the motor vehicle reclaims it after a 90333
search of the records of the bureau has been conducted and after 90334
notice has been sent to the owner or lienholder as described in 90335
this section, and the search was conducted by the owner of the 90336

place of storage or the owner's employee, and the notice was sent 90337
to the motor vehicle owner by the owner of the place of storage or 90338
the owner's employee, the owner or lienholder shall pay to the 90339
place of storage a processing fee of twenty-five dollars, in 90340
addition to any expenses or charges incurred in the removal and 90341
storage of the vehicle. 90342

If the owner or lienholder makes no claim to the motor 90343
vehicle within ten days of the date of mailing of the notice, and 90344
if the vehicle is to be disposed of at public auction as provided 90345
in section 4513.62 of the Revised Code, the sheriff or chief of 90346
police, without charge to any party, shall file with the clerk of 90347
courts of the county in which the place of storage is located an 90348
affidavit showing compliance with the requirements of this 90349
section. Upon presentation of the affidavit, the clerk, without 90350
charge, shall issue a salvage certificate of title, free and clear 90351
of all liens and encumbrances, to the sheriff or chief of police. 90352
If the vehicle is to be disposed of to a motor vehicle salvage 90353
dealer or other facility as provided in section 4513.62 of the 90354
Revised Code, the sheriff or chief of police shall execute in 90355
triplicate an affidavit, as prescribed by the registrar of motor 90356
vehicles, describing the motor vehicle and the manner in which it 90357
was disposed of, and that all requirements of this section have 90358
been complied with. The sheriff or chief of police shall retain 90359
the original of the affidavit for the sheriff's or chief's 90360
records, and shall furnish two copies to the motor vehicle salvage 90361
dealer or other facility. Upon presentation of a copy of the 90362
affidavit by the motor vehicle salvage dealer, the clerk of 90363
courts, within thirty days of the presentation, shall issue to 90364
such owner a salvage certificate of title, free and clear of all 90365
liens and encumbrances. 90366

Whenever a motor vehicle salvage dealer or other facility 90367
receives an affidavit for the disposal of a motor vehicle as 90368

provided in this section, the dealer or facility shall not be 90369
required to obtain an Ohio certificate of title to the motor 90370
vehicle in the dealer's or facility's own name if the vehicle is 90371
dismantled or destroyed and both copies of the affidavit are 90372
delivered to the clerk of courts. 90373

Sec. 4513.62. Unclaimed motor vehicles ordered into storage 90374
pursuant to division (A)(1) of section 4513.60 or section 4513.61 90375
of the Revised Code shall be disposed of at the order of the 90376
sheriff of the county or the chief of police of the municipal 90377
corporation, township, or township or joint police district to a 90378
motor vehicle salvage dealer or scrap metal processing facility as 90379
defined in section 4737.05 of the Revised Code, or to any other 90380
facility owned by or under contract with the county, municipal 90381
corporation, or township, for the disposal of such motor vehicles, 90382
or shall be sold by the sheriff, chief of police, or licensed 90383
auctioneer at public auction, after giving notice thereof by 90384
advertisement, published once a week for two successive weeks in a 90385
newspaper of general circulation in the county or as provided in 90386
section 7.16 of the Revised Code. Any moneys accruing from the 90387
disposition of an unclaimed motor vehicle that are in excess of 90388
the expenses resulting from the removal and storage of the vehicle 90389
shall be credited to the general fund of the county, ~~the~~ municipal 90390
corporation, ~~or the~~ township, or joint police district, as the 90391
case may be. 90392

Sec. 4513.63. "Abandoned junk motor vehicle" means any motor 90393
vehicle meeting all of the following requirements: 90394

(A) Left on private property for forty-eight hours or longer 90395
without the permission of the person having the right to the 90396
possession of the property, on a public street or other property 90397
open to the public for purposes of vehicular travel or parking, or 90398
upon or within the right-of-way of any road or highway, for 90399

forty-eight hours or longer; 90400

(B) Three years old, or older; 90401

(C) Extensively damaged, such damage including but not 90402
limited to any of the following: missing wheels, tires, motor, or 90403
transmission; 90404

(D) Apparently inoperable; 90405

(E) Having a fair market value of one thousand five hundred 90406
dollars or less. 90407

The sheriff of a county or chief of police of a municipal 90408
corporation, township, or township or joint police district, 90409
within the sheriff's or chief's respective territorial 90410
jurisdiction, or a state highway patrol trooper, upon notification 90411
to the sheriff or chief of police of such action, shall order any 90412
abandoned junk motor vehicle to be photographed by a law 90413
enforcement officer. The officer shall record the make of motor 90414
vehicle, the serial number when available, and shall also detail 90415
the damage or missing equipment to substantiate the value of one 90416
thousand five hundred dollars or less. The sheriff or chief of 90417
police shall thereupon immediately dispose of the abandoned junk 90418
motor vehicle to a motor vehicle salvage dealer as defined in 90419
section 4738.01 of the Revised Code or a scrap metal processing 90420
facility as defined in section 4737.05 of the Revised Code which 90421
is under contract to the county, township, or municipal 90422
corporation, or to any other facility owned by or under contract 90423
with the county, township, or municipal corporation for the 90424
destruction of such motor vehicles. The records and photograph 90425
relating to the abandoned junk motor vehicle shall be retained by 90426
the law enforcement agency ordering the disposition of such 90427
vehicle for a period of at least two years. The law enforcement 90428
agency shall execute in quadruplicate an affidavit, as prescribed 90429
by the registrar of motor vehicles, describing the motor vehicle 90430

and the manner in which it was disposed of, and that all 90431
requirements of this section have been complied with, and, within 90432
thirty days of disposing of the vehicle, shall sign and file the 90433
affidavit with the clerk of courts of the county in which the 90434
motor vehicle was abandoned. The clerk of courts shall retain the 90435
original of the affidavit for the clerk's files, shall furnish one 90436
copy thereof to the registrar, one copy to the motor vehicle 90437
salvage dealer or other facility handling the disposal of the 90438
vehicle, and one copy to the law enforcement agency ordering the 90439
disposal, who shall file such copy with the records and photograph 90440
relating to the disposal. Any moneys arising from the disposal of 90441
an abandoned junk motor vehicle shall be deposited in the general 90442
fund of the county, township, or the municipal corporation, as the 90443
case may be. 90444

Notwithstanding section 4513.61 of the Revised Code, any 90445
motor vehicle meeting the requirements of divisions (C), (D), and 90446
(E) of this section which has remained unclaimed by the owner or 90447
lienholder for a period of ten days or longer following 90448
notification as provided in section 4513.61 of the Revised Code 90449
may be disposed of as provided in this section. 90450

Sec. 4513.64. (A) No person shall willfully leave an 90451
abandoned junk motor vehicle as defined in section 4513.63 of the 90452
Revised Code on private property for more than seventy-two hours 90453
without the permission of the person having the right to the 90454
possession of the property, or on a public street or other 90455
property open to the public for purposes of vehicular travel or 90456
parking, or upon or within the right-of-way of any road or 90457
highway, for forty-eight hours or longer without notification to 90458
the sheriff of the county or chief of police of the municipal 90459
corporation, township, or township or joint police district of the 90460
reasons for leaving the motor vehicle in such place. 90461

For purposes of this section, the fact that a motor vehicle 90462
has been so left without permission or notification is prima-facie 90463
evidence of abandonment. 90464

Nothing contained in sections 4513.60, 4513.61, and 4513.63 90465
of the Revised Code shall invalidate the provisions of municipal 90466
ordinances or township resolutions regulating or prohibiting the 90467
abandonment of motor vehicles on streets, highways, public 90468
property, or private property within municipal corporations or 90469
townships. 90470

(B) Whoever violates this section is guilty of a minor 90471
misdemeanor and shall also be assessed any costs incurred by the 90472
county, township, joint police district, or municipal corporation 90473
in disposing of the abandoned junk motor vehicle that is the basis 90474
of the violation, less any money accruing to the county, ~~to the~~ 90475
township, joint police district, or ~~to the~~ municipal corporation 90476
from this disposal of the vehicle. 90477

Sec. 4513.66. (A) If a motor vehicle accident occurs on any 90478
highway, public street, or other property open to the public for 90479
purposes of vehicular travel and if any motor vehicle, cargo, or 90480
personal property that has been damaged or spilled as a result of 90481
the motor vehicle accident is blocking the highway, street, or 90482
other property or is otherwise endangering public safety, the 90483
sheriff of the county, or the chief of police of the municipal 90484
corporation, township, or township or joint police district, in 90485
which the accident occurred, a state highway patrol trooper, or 90486
the chief of the fire department having jurisdiction where the 90487
accident occurred may, without consent of the owner but with the 90488
approval of the law enforcement agency conducting any 90489
investigation of the accident, remove the motor vehicle if the 90490
motor vehicle is unoccupied, cargo, or personal property from the 90491
portion of the highway, public street, or property ordinarily used 90492

for vehicular travel on the highway, public street, or other 90493
property open to the public for purposes of vehicular travel. 90494

(B)(1) Except as provided in division (B)(2) or (3) of this 90495
section, no employee of the department of transportation, sheriff, 90496
deputy sheriff, chief of police or police officer of a municipal 90497
corporation, township, or township or joint police district, state 90498
highway patrol trooper, chief of a fire department, or fire 90499
fighter who authorizes or participates in the removal of any 90500
unoccupied motor vehicle, cargo, or personal property as 90501
authorized by division (A) of this section is liable in civil 90502
damages for any injury, death, or loss to person or property that 90503
results from the removal of that unoccupied motor vehicle, cargo, 90504
or personal property. Except as provided in division (B)(2) or (3) 90505
of this section, if the department of transportation or a sheriff, 90506
chief of police of a municipal corporation, township, or township 90507
or joint police district, head of the state highway patrol, or 90508
chief of a fire department authorizes, employs, or arranges to 90509
have a private tow truck operator or towing company remove any 90510
unoccupied motor vehicle, cargo, or personal property as 90511
authorized by division (A) of this section, that private tow truck 90512
operator or towing company is not liable in civil damages for any 90513
injury, death, or loss to person or property that results from the 90514
removal of that unoccupied motor vehicle, cargo, or personal 90515
property, and the department of transportation, sheriff, chief of 90516
police, head of the state highway patrol, or fire department chief 90517
is not liable in civil damages for any injury, death, or loss to 90518
person or property that results from the private tow truck 90519
operator or towing company's removal of that unoccupied motor 90520
vehicle, cargo, or personal property. 90521

(2) Division (B)(1) of this section does not apply to any 90522
person or entity involved in the removal of an unoccupied motor 90523
vehicle, cargo, or personal property pursuant to division (A) of 90524

this section if that removal causes or contributes to the release 90525
of a hazardous material or to structural damage to the roadway. 90526

(3) Division (B)(1) of this section does not apply to a 90527
private tow truck operator or towing company that was not 90528
authorized, employed, or arranged by the department of 90529
transportation, a sheriff, a chief of police of a municipal 90530
corporation, township, or township or joint police district, the 90531
head of the state highway patrol, or a chief of a fire department 90532
or to a private tow truck operator or towing company that was 90533
authorized, employed, or arranged by the department of 90534
transportation, a sheriff, a chief of police of a municipal 90535
corporation, township, or township or joint police district, the 90536
head of the state highway patrol, or a chief of a fire department 90537
to perform the removal of the unoccupied motor vehicle, cargo, or 90538
personal property and the private tow truck operator or towing 90539
company performed the removal in a reckless or willful manner. 90540

(C) As used in this section, "hazardous material" has the 90541
same meaning as in section 2305.232 of the Revised Code. 90542

Sec. 4517.01. As used in sections 4517.01 to 4517.65 of the 90543
Revised Code: 90544

(A) "Persons" includes individuals, firms, partnerships, 90545
associations, joint stock companies, corporations, and any 90546
combinations of individuals. 90547

(B) "Motor vehicle" means motor vehicle as defined in section 90548
4501.01 of the Revised Code and also includes "all-purpose 90549
vehicle" and "off-highway motorcycle" as those terms are defined 90550
in section 4519.01 of the Revised Code. "Motor vehicle" does not 90551
include a snowmobile as defined in section 4519.01 of the Revised 90552
Code or manufactured and mobile homes. 90553

(C) "New motor vehicle" means a motor vehicle, the legal 90554

title to which has never been transferred by a manufacturer, 90555
remanufacturer, distributor, or dealer to an ultimate purchaser. 90556

(D) "Ultimate purchaser" means, with respect to any new motor 90557
vehicle, the first person, other than a dealer purchasing in the 90558
capacity of a dealer, who in good faith purchases such new motor 90559
vehicle for purposes other than resale. 90560

(E) "Business" includes any activities engaged in by any 90561
person for the object of gain, benefit, or advantage either direct 90562
or indirect. 90563

(F) "Engaging in business" means commencing, conducting, or 90564
continuing in business, or liquidating a business when the 90565
liquidator thereof holds self out to be conducting such business; 90566
making a casual sale or otherwise making transfers in the ordinary 90567
course of business when the transfers are made in connection with 90568
the disposition of all or substantially all of the transferor's 90569
assets is not engaging in business. 90570

(G) "Retail sale" or "sale at retail" means the act or 90571
attempted act of selling, bartering, exchanging, or otherwise 90572
disposing of a motor vehicle to an ultimate purchaser for use as a 90573
consumer. 90574

(H) "Retail installment contract" includes any contract in 90575
the form of a note, chattel mortgage, conditional sales contract, 90576
lease, agreement, or other instrument payable in one or more 90577
installments over a period of time and arising out of the retail 90578
sale of a motor vehicle. 90579

(I) "Farm machinery" means all machines and tools used in the 90580
production, harvesting, and care of farm products. 90581

(J) "Dealer" or "motor vehicle dealer" means any new motor 90582
vehicle dealer, any motor vehicle leasing dealer, and any used 90583
motor vehicle dealer. 90584

(K) "New motor vehicle dealer" means any person engaged in 90585
the business of selling at retail, displaying, offering for sale, 90586
or dealing in new motor vehicles pursuant to a contract or 90587
agreement entered into with the manufacturer, remanufacturer, or 90588
distributor of the motor vehicles. 90589

(L) "Used motor vehicle dealer" means any person engaged in 90590
the business of selling, displaying, offering for sale, or dealing 90591
in used motor vehicles, at retail or wholesale, but does not mean 90592
any new motor vehicle dealer selling, displaying, offering for 90593
sale, or dealing in used motor vehicles incidentally to engaging 90594
in the business of selling, displaying, offering for sale, or 90595
dealing in new motor vehicles, any person engaged in the business 90596
of dismantling, salvaging, or rebuilding motor vehicles by means 90597
of using used parts, or any public officer performing official 90598
duties. 90599

(M) "Motor vehicle leasing dealer" means any person engaged 90600
in the business of regularly making available, offering to make 90601
available, or arranging for another person to use a motor vehicle 90602
pursuant to a bailment, lease, sublease, or other contractual 90603
arrangement under which a charge is made for its use at a periodic 90604
rate for a term of thirty days or more, and title to the motor 90605
vehicle is in and remains in the motor vehicle leasing dealer who 90606
originally leases it, irrespective of whether or not the motor 90607
vehicle is the subject of a later sublease, and not in the user, 90608
but does not mean a manufacturer or its affiliate leasing to its 90609
employees or to dealers. 90610

(N) "Salesperson" means any person employed by a dealer ~~or~~ 90611
~~manufactured home broker~~ to sell, display, and offer for sale, or 90612
deal in motor vehicles for a commission, compensation, or other 90613
valuable consideration, but does not mean any public officer 90614
performing official duties. 90615

(O) "Casual sale" means any transfer of a motor vehicle by a 90616

person other than a new motor vehicle dealer, used motor vehicle 90617
dealer, motor vehicle salvage dealer, as defined in division (A) 90618
of section 4738.01 of the Revised Code, salesperson, motor vehicle 90619
auction owner, manufacturer, or distributor acting in the capacity 90620
of a dealer, salesperson, auction owner, manufacturer, or 90621
distributor, to a person who purchases the motor vehicle for use 90622
as a consumer. 90623

(P) "Motor vehicle show" means a display of current models of 90624
motor vehicles whereby the primary purpose is the exhibition of 90625
competitive makes and models in order to provide the general 90626
public the opportunity to review and inspect various makes and 90627
models of motor vehicles at a single location. 90628

(Q) "Motor vehicle auction owner" means any person who is 90629
engaged wholly or in part in the business of auctioning motor 90630
vehicles, but does not mean a construction equipment auctioneer or 90631
a construction equipment auction licensee. 90632

(R) "Manufacturer" means a person who manufactures, 90633
assembles, or imports motor vehicles, including motor homes, but 90634
does not mean a person who only assembles or installs a body, 90635
special equipment unit, finishing trim, or accessories on a motor 90636
vehicle chassis supplied by a manufacturer or distributor. 90637

(S) "Tent-type fold-out camping trailer" means any vehicle 90638
intended to be used, when stationary, as a temporary shelter with 90639
living and sleeping facilities, and that is subject to the 90640
following properties and limitations: 90641

(1) A minimum of twenty-five per cent of the fold-out portion 90642
of the top and sidewalls combined must be constructed of canvas, 90643
vinyl, or other fabric, and form an integral part of the shelter. 90644

(2) When folded, the unit must not exceed: 90645

(a) Fifteen feet in length, exclusive of bumper and tongue; 90646

(b) Sixty inches in height from the point of contact with the ground;	90647 90648
(c) Eight feet in width;	90649
(d) One ton gross weight at time of sale.	90650
(T) "Distributor" means any person authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed new motor vehicle dealers, but does not mean a person who only assembles or installs a body, special equipment unit, finishing trim, or accessories on a motor vehicle chassis supplied by a manufacturer or distributor.	90651 90652 90653 90654 90655 90656
(U) "Flea market" means a market place, other than a dealer's location licensed under this chapter, where a space or location is provided for a fee or compensation to a seller to exhibit and offer for sale or trade, motor vehicles to the general public.	90657 90658 90659 90660
(V) "Franchise" means any written agreement, contract, or understanding between any motor vehicle manufacturer or remanufacturer engaged in commerce and any motor vehicle dealer that purports to fix the legal rights and liabilities of the parties to such agreement, contract, or understanding.	90661 90662 90663 90664 90665
(W) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise agreement and who offers, sells, and provides service for such new motor vehicles to the general public.	90666 90667 90668 90669
(X) "Franchisor" means a new motor vehicle manufacturer, remanufacturer, or distributor who supplies new motor vehicles under a franchise agreement to a franchisee.	90670 90671 90672
(Y) "Dealer organization" means a state or local trade association the membership of which is comprised predominantly of new motor vehicle dealers.	90673 90674 90675
(Z) "Factory representative" means a representative employed	90676

by a manufacturer, remanufacturer, or by a factory branch 90677
primarily for the purpose of promoting the sale of its motor 90678
vehicles, parts, or accessories to dealers or for supervising or 90679
contacting its dealers or prospective dealers. 90680

(AA) "Administrative or executive management" means those 90681
individuals who are not subject to federal wage and hour laws. 90682

(BB) "Good faith" means honesty in the conduct or transaction 90683
concerned and the observance of reasonable commercial standards of 90684
fair dealing in the trade as is defined in section 1301.201 of the 90685
Revised Code, including, but not limited to, the duty to act in a 90686
fair and equitable manner so as to guarantee freedom from 90687
coercion, intimidation, or threats of coercion or intimidation; 90688
provided however, that recommendation, endorsement, exposition, 90689
persuasion, urging, or argument shall not be considered to 90690
constitute a lack of good faith. 90691

(CC) "Coerce" means to compel or attempt to compel by failing 90692
to act in good faith or by threat of economic harm, breach of 90693
contract, or other adverse consequences. Coerce does not mean to 90694
argue, urge, recommend, or persuade. 90695

(DD) "Relevant market area" means any area within a radius of 90696
ten miles from the site of a potential new dealership, except that 90697
for manufactured home or recreational vehicle dealerships the 90698
radius shall be twenty-five miles. The ten-mile radius shall be 90699
measured from the dealer's established place of business that is 90700
used exclusively for the purpose of selling, displaying, offering 90701
for sale, or dealing in motor vehicles. 90702

(EE) "Wholesale" or "at wholesale" means the act or attempted 90703
act of selling, bartering, exchanging, or otherwise disposing of a 90704
motor vehicle to a transferee for the purpose of resale and not 90705
for ultimate consumption by that transferee. 90706

(FF) "Motor vehicle wholesaler" means any person licensed as 90707

a dealer under the laws of another state and engaged in the 90708
business of selling, displaying, or offering for sale used motor 90709
vehicles, at wholesale, but does not mean any motor vehicle dealer 90710
as defined in this section. 90711

(GG)(1) "Remanufacturer" means a person who assembles or 90712
installs passenger seating, walls, a roof elevation, or a body 90713
extension on a conversion van with the motor vehicle chassis 90714
supplied by a manufacturer or distributor, a person who modifies a 90715
truck chassis supplied by a manufacturer or distributor for use as 90716
a public safety or public service vehicle, a person who modifies a 90717
motor vehicle chassis supplied by a manufacturer or distributor 90718
for use as a limousine or hearse, or a person who modifies an 90719
incomplete motor vehicle cab and chassis supplied by a new motor 90720
vehicle dealer or distributor for use as a tow truck, but does not 90721
mean either of the following: 90722

(a) A person who assembles or installs passenger seating, a 90723
roof elevation, or a body extension on a recreational vehicle as 90724
defined in division (Q) and referred to in division (B) of section 90725
4501.01 of the Revised Code; 90726

(b) A person who assembles or installs special equipment or 90727
accessories for handicapped persons, as defined in section 4503.44 90728
of the Revised Code, upon a motor vehicle chassis supplied by a 90729
manufacturer or distributor. 90730

(2) For the purposes of division (GG)(1) of this section, 90731
"public safety vehicle or public service vehicle" means a fire 90732
truck, ambulance, school bus, street sweeper, garbage packing 90733
truck, or cement mixer, or a mobile self-contained facility 90734
vehicle. 90735

(3) For the purposes of division (GG)(1) of this section, 90736
"limousine" means a motor vehicle, designed only for the purpose 90737
of carrying nine or fewer passengers, that a person modifies by 90738

cutting the original chassis, lengthening the wheelbase by forty 90739
inches or more, and reinforcing the chassis in such a way that all 90740
modifications comply with all applicable federal motor vehicle 90741
safety standards. No person shall qualify as or be deemed to be a 90742
remanufacturer who produces limousines unless the person has a 90743
written agreement with the manufacturer of the chassis the person 90744
utilizes to produce the limousines to complete properly the 90745
remanufacture of the chassis into limousines. 90746

(4) For the purposes of division (GG)(1) of this section, 90747
"hearse" means a motor vehicle, designed only for the purpose of 90748
transporting a single casket, that is equipped with a compartment 90749
designed specifically to carry a single casket that a person 90750
modifies by cutting the original chassis, lengthening the 90751
wheelbase by ten inches or more, and reinforcing the chassis in 90752
such a way that all modifications comply with all applicable 90753
federal motor vehicle safety standards. No person shall qualify as 90754
or be deemed to be a remanufacturer who produces hearses unless 90755
the person has a written agreement with the manufacturer of the 90756
chassis the person utilizes to produce the hearses to complete 90757
properly the remanufacture of the chassis into hearses. 90758

(5) For the purposes of division (GG)(1) of this section, 90759
"mobile self-contained facility vehicle" means a mobile classroom 90760
vehicle, mobile laboratory vehicle, bookmobile, bloodmobile, 90761
testing laboratory, and mobile display vehicle, each of which is 90762
designed for purposes other than for passenger transportation and 90763
other than the transportation or displacement of cargo, freight, 90764
materials, or merchandise. A vehicle is remanufactured into a 90765
mobile self-contained facility vehicle in part by the addition of 90766
insulation to the body shell, and installation of all of the 90767
following: a generator, electrical wiring, plumbing, holding 90768
tanks, doors, windows, cabinets, shelving, and heating, 90769
ventilating, and air conditioning systems. 90770

(6) For the purposes of division (GG)(1) of this section, 90771
"tow truck" means both of the following: 90772

(a) An incomplete cab and chassis that are purchased by a 90773
remanufacturer from a new motor vehicle dealer or distributor of 90774
the cab and chassis and on which the remanufacturer then installs 90775
in a permanent manner a wrecker body it purchases from a 90776
manufacturer or distributor of wrecker bodies, installs an 90777
emergency flashing light pylon and emergency lights upon the mast 90778
of the wrecker body or rooftop, and installs such other related 90779
accessories and equipment, including push bumpers, front grille 90780
guards with pads and other custom-ordered items such as painting, 90781
special lettering, and safety striping so as to create a complete 90782
motor vehicle capable of lifting and towing another motor vehicle. 90783

(b) An incomplete cab and chassis that are purchased by a 90784
remanufacturer from a new motor vehicle dealer or distributor of 90785
the cab and chassis and on which the remanufacturer then installs 90786
in a permanent manner a car carrier body it purchases from a 90787
manufacturer or distributor of car carrier bodies, installs an 90788
emergency flashing light pylon and emergency lights upon the 90789
rooftop, and installs such other related accessories and 90790
equipment, including push bumpers, front grille guards with pads 90791
and other custom-ordered items such as painting, special 90792
lettering, and safety striping. 90793

As used in division (GG)(6)(b) of this section, "car carrier 90794
body" means a mechanical or hydraulic apparatus capable of lifting 90795
and holding a motor vehicle on a flat level surface so that one or 90796
more motor vehicles can be transported, once the car carrier is 90797
permanently installed upon an incomplete cab and chassis. 90798

(HH) "Operating as a new motor vehicle dealership" means 90799
engaging in activities such as displaying, offering for sale, and 90800
selling new motor vehicles at retail, operating a service facility 90801
to perform repairs and maintenance on motor vehicles, offering for 90802

sale and selling motor vehicle parts at retail, and conducting all 90803
other acts that are usual and customary to the operation of a new 90804
motor vehicle dealership. For the purposes of this chapter only, 90805
possession of either a valid new motor vehicle dealer franchise 90806
agreement or a new motor vehicle dealers license, or both of these 90807
items, is not evidence that a person is operating as a new motor 90808
vehicle dealership. 90809

(II) "Outdoor power equipment" means garden and small utility 90810
tractors, walk-behind and riding mowers, chainsaws, and tillers. 90811

(JJ) "Remote service facility" means premises that are 90812
separate from a licensed new motor vehicle dealer's sales facility 90813
by not more than one mile and that are used by the dealer to 90814
perform repairs, warranty work, recall work, and maintenance on 90815
motor vehicles pursuant to a franchise agreement entered into with 90816
a manufacturer of motor vehicles. A remote service facility shall 90817
be deemed to be part of the franchise agreement and is subject to 90818
all the rights, duties, obligations, and requirements of Chapter 90819
4517. of the Revised Code that relate to the performance of motor 90820
vehicle repairs, warranty work, recall work, and maintenance work 90821
by new motor vehicle dealers. 90822

(KK) "Recreational vehicle" has the same meaning as in 90823
section 4501.01 of the Revised Code. 90824

(LL) "Construction equipment auctioneer" means a person who 90825
holds both a valid ~~auctioneer's~~ auction firm license issued under 90826
Chapter 4707. of the Revised Code and a valid construction 90827
equipment auction license issued under this chapter. 90828

(MM) "Large construction or transportation equipment" means 90829
vehicles having a gross vehicle weight rating of more than ten 90830
thousand pounds and includes road rollers, traction engines, power 90831
shovels, power cranes, commercial cars and trucks, or farm trucks, 90832
and other similar vehicles obtained primarily from the 90833

construction, mining, transportation or farming industries. 90834

Sec. 4517.02. (A) Except as otherwise provided in this 90835
section, no person shall do any of the following: 90836

(1) Engage in the business of displaying or selling at retail 90837
new motor vehicles or assume to engage in that business, unless 90838
the person is licensed as a new motor vehicle dealer under 90839
sections 4517.01 to 4517.45 of the Revised Code, or is a 90840
salesperson licensed under those sections and employed by a 90841
licensed new motor vehicle dealer; 90842

(2) Engage in the business of offering for sale, displaying 90843
for sale, or selling at retail or wholesale used motor vehicles or 90844
assume to engage in that business, unless the person is licensed 90845
as a dealer under sections 4517.01 to 4517.45 of the Revised Code, 90846
is a salesperson licensed under those sections and employed by a 90847
licensed used motor vehicle dealer or licensed new motor vehicle 90848
dealer, or the person holds a construction equipment auction 90849
license issued under section 4517.17 of the Revised Code; 90850

(3) Engage in the business of regularly making available, 90851
offering to make available, or arranging for another person to use 90852
a motor vehicle, in the manner described in division (M) of 90853
section 4517.01 of the Revised Code, unless the person is licensed 90854
as a motor vehicle leasing dealer under sections 4517.01 to 90855
4517.45 of the Revised Code; 90856

(4) Engage in the business of motor vehicle auctioning or 90857
assume to engage in that business, unless the person is licensed 90858
as a motor vehicle auction owner under sections 4517.01 to 4517.45 90859
of the Revised Code and the person uses an auctioneer who is 90860
licensed under Chapter 4707. of the Revised Code to conduct the 90861
motor vehicle auctions or the person holds a construction 90862
equipment auction license issued under section 4517.17 of the 90863
Revised Code; 90864

(5) Engage in the business of distributing motor vehicles or 90865
assume to engage in that business, unless the person is licensed 90866
as a distributor under sections 4517.01 to 4517.45 of the Revised 90867
Code; 90868

(6) Make more than five casual sales of motor vehicles in a 90869
twelve-month period, commencing with the day of the month in which 90870
the first such sale is made, nor provide a location or space for 90871
the sale of motor vehicles at a flea market, without obtaining a 90872
license as a dealer under sections 4517.01 to 4517.45 of the 90873
Revised Code, provided that nothing in this section shall be 90874
construed to prohibit the disposition without a license of a motor 90875
vehicle originally acquired and held for purposes other than sale, 90876
rental, or lease to an employee, retiree, officer, or director of 90877
the person making the disposition, to a corporation affiliated 90878
with the person making the disposition, or to a person licensed 90879
under sections 4517.01 to 4517.45 of the Revised Code; 90880

(7) Engage in the business of auctioning both large 90881
construction or transportation equipment and also motor vehicles 90882
incident thereto, unless the person is a construction equipment 90883
auctioneer or the person is licensed as a motor vehicle auction 90884
owner and the person uses an auctioneer who is licensed under 90885
Chapter 4707. of the Revised Code to conduct the auction. 90886

(B) Nothing in this section shall be construed to require an 90887
auctioneer licensed under sections 4707.01 to 4707.19 of the 90888
Revised Code, to obtain a motor vehicle salesperson's license 90889
under sections 4517.01 to 4517.45 of the Revised Code when 90890
conducting an auction sale for a licensed motor vehicle dealer on 90891
the dealer's premises, or when conducting an auction sale for a 90892
licensed motor vehicle auction owner; nor shall such an auctioneer 90893
be required to obtain a motor vehicle auction owner's license 90894
under sections 4517.01 to 4517.45 of the Revised Code when engaged 90895
in auctioning for a licensed motor vehicle auction owner. 90896

The establishment of a construction equipment auction license 90897
by Am. Sub. H.B. 114 of the 129th general assembly shall not in 90898
any way modify, limit, or restrict in any manner the conduct of 90899
auctions by persons licensed under Chapter 4707. of the Revised 90900
Code who are acting in compliance with that chapter. 90901

(C) Sections 4517.01 to 4517.45 of the Revised Code do not 90902
apply to any of the following: 90903

(1) Persons engaging in the business of selling commercial 90904
tractors, trailers, or semitrailers incidentally to engaging 90905
primarily in business other than the selling or leasing of motor 90906
vehicles; 90907

(2) Mortgagees selling at retail only those motor vehicles 90908
that have come into their possession by a default in the terms of 90909
a mortgage contract; 90910

(3) The leasing, rental, and interchange of motor vehicles 90911
used directly in the rendition of a public utility service by 90912
regulated motor carriers. 90913

(D) When a partnership licensed under sections 4517.01 to 90914
4517.45 of the Revised Code is dissolved by death, the surviving 90915
partners may operate under the license for a period of sixty days, 90916
and the heirs or representatives of deceased persons and receivers 90917
or trustees in bankruptcy appointed by any competent authority may 90918
operate under the license of the person succeeded in possession by 90919
that heir, representative, receiver, or trustee in bankruptcy. 90920

(E) No remanufacturer shall engage in the business of selling 90921
at retail any new motor vehicle without having written authority 90922
from the manufacturer or distributor of the vehicle to sell new 90923
motor vehicles and to perform repairs under the terms of the 90924
manufacturer's or distributor's new motor vehicle warranty, 90925
unless, at the time of the sale of the vehicle, each customer is 90926
furnished with a binding agreement ensuring that the customer has 90927

the right to have the vehicle serviced or repaired by a new motor 90928
vehicle dealer who is franchised to sell and service vehicles of 90929
the same line-make as the chassis of the remanufactured vehicle 90930
purchased by the customer and whose service or repair facility is 90931
located within either twenty miles of the remanufacturer's 90932
location and place of business or twenty miles of the customer's 90933
residence or place of business. If there is no such new motor 90934
vehicle dealer located within twenty miles of the remanufacturer's 90935
location and place of business or the customer's residence or 90936
place of business, the binding agreement furnished to the customer 90937
may be with the new motor vehicle dealer who is franchised to sell 90938
and service vehicles of the same line-make as the chassis of the 90939
remanufactured vehicle purchased by the customer and whose service 90940
or repair facility is located nearest to the remanufacturer's 90941
location and place of business or the customer's residence or 90942
place of business. Additionally, at the time of sale of any 90943
vehicle, each customer of the remanufacturer shall be furnished 90944
with a warranty issued by the remanufacturer for a term of at 90945
least one year. 90946

(F) Except as otherwise provided in this division, whoever 90947
violates this section is guilty of a minor misdemeanor and shall 90948
be subject to a mandatory fine of one hundred dollars. If the 90949
offender previously has been convicted of or pleaded guilty to a 90950
violation of this section, whoever violates this section is guilty 90951
of a misdemeanor of the first degree and shall be subject to a 90952
mandatory fine of one thousand dollars. 90953

Sec. 4517.04. Each person applying for a new motor vehicle 90954
dealer's license shall ~~annually~~ biennially make out and deliver to 90955
the registrar of motor vehicles, before the first day of April, 90956
and upon a blank to be furnished by the registrar for that 90957
purpose, a separate application for license for each county in 90958
which the business of selling new motor vehicles is to be 90959

conducted. The application shall be in the form prescribed by the registrar, shall be signed and sworn to by the applicant, and, in addition to any other information required by the registrar, shall include the following:

(A) Name of applicant and location of principal place of business;

(B) Name or style under which business is to be conducted and, if a corporation, the state of incorporation;

(C) Name and address of each owner or partner and, if a corporation, the names of the officers and directors;

(D) The county in which the business is to be conducted and the address of each place of business therein;

(E) A statement of the previous history, record, and association of the applicant and of each owner, partner, officer, and director, that shall be sufficient to establish to the satisfaction of the registrar the reputation in business of the applicant;

(F) A statement showing whether the applicant has previously applied for a motor vehicle dealer's license, motor vehicle leasing dealer's license, ~~manufactured home broker's license,~~ distributor's license, motor vehicle auction owner's license, or motor vehicle salesperson's license, and the result of the application, and whether the applicant has ever been the holder of any such license that was revoked or suspended;

(G) If the applicant is a corporation or partnership, a statement showing whether any partner, employee, officer, or director has been refused a motor vehicle dealer's license, motor vehicle leasing dealer's license, ~~manufactured home broker's license,~~ distributor's license, motor vehicle auction owner's license, or motor vehicle salesperson's license, or has been the holder of any such license that was revoked or suspended;

(H) A statement of the makes of new motor vehicles to be 90991
handled. 90992

The statement required by division (E) of this section shall 90993
indicate whether the applicant or, if applicable, any of the 90994
applicant's owners, partners, officers, or directors, 90995
individually, or as owner, partner, officer, or director of a 90996
business entity, has been convicted of, pleaded guilty, or pleaded 90997
no contest, in a criminal action, or had a judgment rendered 90998
against ~~him~~ the person in a civil action for, a violation of 90999
sections 4549.41 to 4549.46 of the Revised Code, of any 91000
substantively comparable provisions of the law of any other state, 91001
or of subchapter IV of the "Motor Vehicle Information and Cost 91002
Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 91003

A true copy of the contract, agreement, or understanding the 91004
applicant has entered into or is about to enter into with the 91005
manufacturer or distributor of the new motor vehicles the 91006
applicant will handle shall be filed with the application. If the 91007
contract, agreement, or understanding is not in writing, a written 91008
statement of all the terms thereof shall be filed. Each such copy 91009
or statement shall bear a certificate signed by each party to the 91010
contract, agreement, or understanding, to the effect that the copy 91011
or statement is true and complete and contains all of the 91012
agreements made or about to be made between the parties. 91013

The application also shall be accompanied by a photograph, as 91014
prescribed by the registrar, of each place of business operated, 91015
or to be operated, by the applicant. 91016

Sec. 4517.09. Each person applying for a salesperson's 91017
license shall ~~annually~~ biennially make out and deliver to the 91018
registrar of motor vehicles, before the first day of July and upon 91019
a blank to be furnished by the registrar for that purpose, an 91020
application for license. The application shall be in the form 91021

prescribed by the registrar, shall be signed and sworn to by the 91022
applicant, and, in addition to any other information required by 91023
the registrar, shall include the following: 91024

(A) Name and post-office address of the applicant; 91025

(B) Name and post-office address of the motor vehicle dealer 91026
~~or manufactured home broker~~ for whom the applicant intends to act 91027
as salesperson; 91028

(C) A statement of the applicant's previous history, record, 91029
and association, that shall be sufficient to establish to the 91030
satisfaction of the registrar the applicant's reputation in 91031
business; 91032

(D) A statement as to whether the applicant intends to engage 91033
in any occupation or business other than that of a motor vehicle 91034
salesperson; 91035

(E) A statement as to whether the applicant has ever had any 91036
previous application refused, and whether the applicant has 91037
previously had a license revoked or suspended; 91038

(F) A statement as to whether the applicant was an employee 91039
of or salesperson for a dealer ~~or manufactured home broker~~ whose 91040
license was suspended or revoked; 91041

(G) A statement of the motor vehicle dealer ~~or manufactured~~ 91042
~~home broker~~ named therein, designating the applicant as the 91043
dealer's ~~or broker's~~ salesperson. 91044

The statement required by division (C) of this section shall 91045
indicate whether the applicant individually, or as an owner, 91046
partner, officer, or director of a business entity, has been 91047
convicted of, or pleaded guilty to, in a criminal action, or had a 91048
judgment rendered against the applicant in a civil action for, a 91049
violation of sections 4549.41 to 4549.46 of the Revised Code, of 91050
any substantively comparable provisions of the law of any other 91051

state, or of subchapter IV of the "Motor Vehicle Information and 91052
Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 91053

Sec. 4517.10. At the time the registrar of motor vehicles 91054
grants the application of any person for a license as motor 91055
vehicle dealer, motor vehicle leasing dealer, ~~manufactured home~~ 91056
~~broker~~, distributor, motor vehicle auction owner, or motor vehicle 91057
salesperson, the registrar shall issue to the person a license. 91058
The registrar shall prescribe different forms for the licenses of 91059
motor vehicle dealers, motor vehicle leasing dealers, ~~manufactured~~ 91060
~~home brokers~~, distributors, motor vehicle auction owners, and 91061
motor vehicle salespersons, and all licenses shall include the 91062
name and post-office address of the person licensed. 91063

The fee for a motor vehicle dealer's license, and a motor 91064
vehicle leasing dealer's license, ~~and a manufactured home broker's~~ 91065
~~license~~ shall be fifty dollars, and the. In addition to the 91066
license fee, the registrar shall collect from each applicant for 91067
an initial motor vehicle dealer's license and motor vehicle 91068
leasing dealer's license a separate fee in an amount equal to the 91069
last assessment required by section 4505.181 of the Revised Code 91070
for all motor vehicle dealers and motor vehicle leasing dealers. 91071
The registrar shall deposit the separate fee into the state 91072
treasury to the credit of the title defect rescission fund created 91073
in section 1345.52 of the Revised Code. The fee for a 91074
salesperson's license shall be ten dollars. The fee for a motor 91075
vehicle auction owner's license shall be one hundred dollars for 91076
each location. The fee for a distributor's license shall be one 91077
hundred dollars for each distributorship. In all cases, the fee 91078
shall accompany the application for license. 91079

The registrar may require each applicant for a license issued 91080
under this chapter to pay an additional fee, which shall be used 91081
by the registrar to pay the costs of obtaining a record of any 91082

arrests and convictions of the applicant from the Ohio bureau of 91083
identification and investigation. The amount of the fee shall be 91084
equal to that paid by the registrar to obtain such record. 91085

If a motor vehicle dealer, or a motor vehicle leasing dealer, 91086
~~or a manufactured home broker,~~ has more than one place of business 91087
in the county, the dealer ~~or the broker~~ shall make application, in 91088
such form as the registrar prescribes, for a certified copy of the 91089
license issued to the dealer ~~or manufactured home broker~~ for each 91090
place of business operated. In the event of the loss, mutilation, 91091
or destruction of a license issued under sections 4517.01 to 91092
4517.65 of the Revised Code, any licensee may make application to 91093
the registrar, in such form as the registrar prescribes, for a 91094
duplicate copy thereof. The fee for a certified or duplicate copy 91095
of a motor vehicle dealer's, motor vehicle leasing dealer's, 91096
~~manufactured home broker's,~~ distributor's, or auction owner's 91097
license, is two dollars, and the fee for a duplicate copy of a 91098
salesperson's license is one dollar. All fees for such copies 91099
shall accompany the applications. 91100

Beginning on ~~the effective date of this amendment~~ September 91101
16, 2004, all motor vehicle dealers' licenses, motor vehicle 91102
leasing dealers' licenses, ~~manufactured home broker's licenses,~~ 91103
distributors' licenses, auction owners' licenses, and all 91104
salespersons' licenses issued or renewed shall expire biennially 91105
on a day within the two-year cycle that is prescribed by the 91106
registrar, unless sooner suspended or revoked. Before the first 91107
day after the day prescribed by the registrar in the year that the 91108
license expires, each licensed motor vehicle dealer, motor vehicle 91109
leasing dealer, ~~manufactured home broker,~~ distributor, and auction 91110
owner and each licensed salesperson, in the year in which the 91111
license will expire, shall file an application, in such form as 91112
the registrar prescribes, for the renewal of such license. The fee 91113
~~provided in this section for the original~~ renewing a motor vehicle 91114

dealer's license and a motor vehicle leasing dealer's license 91115
shall be fifty dollars. The fee for renewing a salesperson's 91116
license shall be ten dollars. The fee for renewing a motor vehicle 91117
auction owner's license shall be one hundred dollars for each 91118
location. The fee for renewing a distributor's license shall be 91119
one hundred dollars for each distributorship. In all cases the 91120
license renewal fee shall accompany the renewal application. 91121

91122

Any salesperson's license shall be suspended upon the 91123
termination, suspension, or revocation of the license of the motor 91124
vehicle dealer ~~or manufactured home broker~~ for whom the 91125
salesperson is acting, or upon the salesperson leaving the service 91126
of the motor vehicle dealer ~~or manufactured home broker~~; provided 91127
that upon the termination, suspension, or revocation of the 91128
license of the motor vehicle dealer ~~or manufactured home broker~~ 91129
for whom the salesperson is acting, or upon the salesperson 91130
leaving the service of a licensed motor vehicle dealer ~~or~~ 91131
~~manufactured home broker~~, the licensed salesperson, upon entering 91132
the service of any other licensed motor vehicle dealer ~~or~~ 91133
~~manufactured home broker~~, shall make application to the registrar, 91134
in such form as the registrar prescribes, to have the 91135
salesperson's license reinstated, transferred, and registered as a 91136
salesperson for the other dealer ~~or broker~~. If the information 91137
contained in the application is satisfactory to the registrar, the 91138
registrar shall have the salesperson's license reinstated, 91139
transferred, and registered as a salesperson for the other dealer 91140
~~or broker~~. The fee for the reinstatement and transfer of license 91141
shall be two dollars. No license issued to a motor vehicle dealer, 91142
motor vehicle leasing dealer, auction owner, ~~manufactured home~~ 91143
~~broker~~, or salesperson, under sections 4517.01 to 4517.65 of the 91144
Revised Code shall be transferable to any other person. 91145

Each motor vehicle dealer, motor vehicle leasing dealer, 91146

~~manufactured home broker~~, distributor, and auction owner shall 91147
keep the license or a certified copy thereof and, in the case of a 91148
dealer ~~or broker~~, a current list of the dealer's ~~or the broker's~~ 91149
licensed salespersons, showing the names, addresses, and serial 91150
numbers of their licenses, posted in a conspicuous place in each 91151
place of business. Each salesperson shall carry the salesperson's 91152
license or a certified copy thereof and shall exhibit such license 91153
or copy upon demand to any inspector of the bureau of motor 91154
vehicles, state highway patrol trooper, police officer, or person 91155
with whom the salesperson seeks to transact business as a motor 91156
vehicle salesperson. 91157

The notice of refusal to grant a license shall disclose the 91158
reason for refusal. 91159

Sec. 4517.12. (A) The registrar of motor vehicles shall deny 91160
the application of any person for a license as a motor vehicle 91161
dealer, motor vehicle leasing dealer, ~~manufactured home broker~~, or 91162
motor vehicle auction owner and refuse to issue the license if the 91163
registrar finds that the applicant: 91164

(1) Has made any false statement of a material fact in the 91165
application; 91166

(2) Has not complied with sections 4517.01 to 4517.45 of the 91167
Revised Code; 91168

(3) Is of bad business repute or has habitually defaulted on 91169
financial obligations; 91170

(4) Is engaged or will engage in the business of selling at 91171
retail any new motor vehicles without having written authority 91172
from the manufacturer or distributor thereof to sell new motor 91173
vehicles and to perform repairs under the terms of the 91174
manufacturer's or distributor's new motor vehicle warranty, except 91175
as provided in division (C) of this section and except that a 91176

person who assembles or installs special equipment or accessories 91177
for handicapped persons, as defined in section 4503.44 of the 91178
Revised Code, upon a motor vehicle chassis supplied by a 91179
manufacturer or distributor shall not be denied a license pursuant 91180
to division (A)(4) of this section; 91181

(5) Has been guilty of a fraudulent act in connection with 91182
selling or otherwise dealing in, or leasing, motor vehicles, or in 91183
connection with brokering manufactured homes; 91184

(6) Has entered into or is about to enter into a contract or 91185
agreement with a manufacturer or distributor of motor vehicles 91186
that is contrary to sections 4517.01 to 4517.45 of the Revised 91187
Code; 91188

(7) Is insolvent; 91189

(8) Is of insufficient responsibility to ensure the prompt 91190
payment of any final judgments that might reasonably be entered 91191
against the applicant because of the transaction of business as a 91192
motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured~~ 91193
~~home broker,~~ or motor vehicle auction owner during the period of 91194
the license applied for, or has failed to satisfy any such 91195
judgment; 91196

(9) Has no established place of business that, where 91197
applicable, is used or will be used for the purpose of selling, 91198
displaying, offering for sale, dealing in, or leasing motor 91199
vehicles at the location for which application is made; 91200

(10) Has, less than twelve months prior to making 91201
application, been denied a motor vehicle dealer's, motor vehicle 91202
leasing dealer's, ~~manufactured home broker's,~~ or motor vehicle 91203
auction owner's license, or has any such license revoked. 91204

(B) If the applicant is a corporation or partnership, the 91205
registrar may refuse to issue a license if any officer, director, 91206
or partner of the applicant has been guilty of any act or omission 91207

that would be cause for refusing or revoking a license issued to 91208
such officer, director, or partner as an individual. The 91209
registrar's finding may be based upon facts contained in the 91210
application or upon any other information the registrar may have. 91211
Immediately upon denying an application for any of the reasons in 91212
this section, the registrar shall enter a final order together 91213
with the registrar's findings and certify the same to the motor 91214
vehicle dealers' and salespersons' licensing board. 91215

(C) Notwithstanding division (A)(4) of this section, the 91216
registrar shall not deny the application of any person and refuse 91217
to issue a license if the registrar finds that the applicant is 91218
engaged or will engage in the business of selling at retail any 91219
new motor vehicles and demonstrates all of the following in the 91220
form prescribed by the registrar: 91221

(1) That the applicant has posted a bond, surety, or 91222
certificate of deposit with the registrar in an amount not less 91223
than one hundred thousand dollars for the protection and benefit 91224
of the applicant's customers except that a new motor vehicle 91225
dealer who is not exclusively engaged in the business of selling 91226
remanufactured vehicles shall not be required to post the bond, 91227
surety, or certificate of deposit otherwise required by division 91228
(C)(1) of this section; 91229

~~(2) That, at the time of the sale of the vehicle, each 91230
customer of the applicant will be furnished with a binding 91231
agreement ensuring that the customer has the right to have the 91232
vehicle serviced or repaired by a new motor vehicle dealer who is 91233
licensed to sell and service vehicles of the same line make as the 91234
chassis of the remanufactured vehicle purchased by the customer 91235
and whose service or repair facility is located within either 91236
twenty miles of the applicant's location and place of business or 91237
twenty miles of the customer's residence or place of business. If 91238
there is no such new motor vehicle dealer located within twenty 91239~~

~~miles of the applicant's location and place of business or the 91240
customer's residence or place of business, the binding agreement 91241
furnished to the customer may be with the new motor vehicle dealer 91242
who is franchised to sell and service vehicles of the same 91243
line make as the chassis of the remanufactured vehicle purchased 91244
by the customer and whose service or repair facility is located 91245
nearest to the remanufacturer's location and place of business or 91246
the customer's residence or place of business. 91247~~

~~(3) That, at the time of the sale of the vehicle, each 91248
customer of the applicant will be furnished with a warranty issued 91249
by the remanufacturer for a term of at least one year; 91250~~

~~(4)(3) That the applicant provides and maintains at the 91251
applicant's location and place of business a permanent facility 91252
with all of the following: 91253~~

~~(a) A showroom with space, under roof, for the display of at 91254
least one new motor vehicle; 91255~~

~~(b) A service and parts facility for remanufactured vehicles; 91256~~

~~(c) Full-time service and parts personnel with the proper 91257
training and technical expertise to service the remanufactured 91258
vehicles sold by the applicant. 91259~~

Sec. 4517.13. The registrar of motor vehicles shall deny the 91260
application of any person for a license as a distributor and 91261
refuse to issue the license if the registrar finds that the 91262
applicant: 91263

~~(A) Has made any false statement of a material fact in the 91264
application; 91265~~

~~(B) Has not complied with sections 4517.01 to 4517.45 of the 91266
Revised Code; 91267~~

~~(C) Is of bad business repute or has habitually defaulted on 91268
financial obligations; 91269~~

(D) Is engaged or will engage in the business of distributing 91270
any new motor vehicle without having the authority of a contract 91271
with the manufacturer of the vehicle; 91272

(E) Has been guilty of a fraudulent act in connection with 91273
selling or otherwise dealing in motor vehicles; 91274

(F) Has entered into or is about to enter into a contract or 91275
agreement with a manufacturer of motor vehicles that is contrary 91276
to sections 4517.01 to 4517.45 of the Revised Code; 91277

(G) Is insolvent; 91278

(H) Is of insufficient responsibility to ensure the prompt 91279
payment of any financial judgment that might reasonably be entered 91280
against the applicant because of the transaction of business as a 91281
distributor during the period of the license applied for, or has 91282
failed to satisfy any such judgment; 91283

(I) Has no established place of business that, where 91284
applicable, is used or will be used exclusively for the purpose of 91285
distributing new motor vehicles at the location for which 91286
application is made; 91287

(J) Has, less than twelve months prior to making application, 91288
been denied a distributor's, motor vehicle dealer's, motor vehicle 91289
leasing dealer's, ~~manufactured home broker's,~~ or motor vehicle 91290
auction owner's license, or had any such license revoked. 91291

If the applicant is a corporation or partnership, the 91292
registrar may refuse to issue a license if any officer, director, 91293
employee, or partner of the applicant has been guilty of any act 91294
or omission that would be cause for refusing or revoking a license 91295
issued to such officer, director, employee, or partner as an 91296
individual. The registrar's finding may be based upon facts 91297
contained in the application or upon any other information the 91298
registrar may have. Immediately upon denying an application for 91299
any of the reasons in this section, the registrar shall enter a 91300

final order together with the registrar's findings and certify the 91301
same to the motor vehicle dealers board. 91302

Sec. 4517.14. The registrar of motor vehicles shall deny the 91303
application of any person for a license as a salesperson and 91304
refuse to issue the license if the registrar finds that the 91305
applicant: 91306

(A) Has made any false statement of a material fact in the 91307
application; 91308

(B) Has not complied with sections 4517.01 to 4517.45 of the 91309
Revised Code; 91310

(C) Is of bad business repute or has habitually defaulted on 91311
financial obligations; 91312

(D) Has been guilty of a fraudulent act in connection with 91313
selling or otherwise dealing in motor vehicles; 91314

(E) Has not been designated to act as salesperson for a motor 91315
vehicle dealer ~~or manufactured home broker~~ licensed to do business 91316
in this state under section 4517.10 of the Revised Code, or 91317
intends to act as salesperson for more than one licensed motor 91318
vehicle dealer ~~or manufactured home broker~~ at the same time, 91319
except that a licensed salesperson may act as a salesperson at any 91320
licensed dealership owned or operated by the same ~~corporation~~ 91321
company, regardless of the county in which the dealership's 91322
facility is located; 91323

(F) Holds a current motor vehicle dealer's ~~or manufactured~~ 91324
~~home broker's~~ license issued under section 4517.10 of the Revised 91325
Code, and intends to act as salesperson for another licensed motor 91326
vehicle dealer ~~or manufactured home broker~~; 91327

(G) Has, less than twelve months prior to making application, 91328
been denied a salesperson's license or had a salesperson's license 91329
revoked. 91330

The registrar may refuse to issue a salesperson's license to an applicant who was salesperson for, or in the employ of, a motor vehicle dealer ~~or manufactured home broker~~ at the time the dealer's ~~or broker's~~ license was revoked. The registrar's finding may be based upon any statement contained in the application or upon any facts within the registrar's knowledge, and, immediately upon refusing to issue a salesperson's license, the registrar shall enter a final order and shall certify the final order together with his findings to the motor vehicle dealers board.

Sec. 4517.23. (A) Any licensed motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker,~~ or distributor shall notify the registrar of motor vehicles concerning any change in status as a dealer, motor vehicle leasing dealer, ~~manufactured home broker,~~ or distributor during the period for which the dealer, ~~broker,~~ or distributor is licensed, if the change of status concerns any of the following:

(1) Personnel of owners, partners, officers, or directors;

(2) Location of office or principal place of business;

(3) In the case of a motor vehicle dealer, any contract or agreement with any manufacturer or distributor; and in the case of a distributor, any contract or agreement with any manufacturer.

(B) The notification required by division (A) of this section shall be made by filing with the registrar, within fifteen days after the change of status, a supplemental statement in a form prescribed by the registrar showing in what respect the status has been changed. If the change involves a change in any contract or agreement between any manufacturer or distributor, and dealer, or any manufacturer and distributor, the supplemental statement shall be accompanied by such copies of contracts, statements, and certificates as would have been required by sections 4517.01 to 4517.45 of the Revised Code if the change had occurred prior to

the licensee's application for license. 91362

The motor vehicle dealers board may adopt a rule exempting 91363
from the notification requirement of division (A)(1) of this 91364
section any dealer if stock in the dealer or its parent company is 91365
publicly traded and if there are public records with state or 91366
federal agencies that provide the information required by division 91367
(A)(1) of this section. 91368

(C) Whoever violates this section is guilty of a misdemeanor 91369
of the fourth degree. 91370

Sec. 4517.24. (A) No two motor vehicle dealers shall engage 91371
in business at the same location, unless they agree to be jointly, 91372
severally, and personally liable for any liability arising from 91373
their engaging in business at the same location. The agreement 91374
shall be filed with the motor vehicle dealers board, and shall 91375
also be made a part of the articles of incorporation of each such 91376
dealer filed with the secretary of state. Whenever the board has 91377
reason to believe that a dealer who has entered into such an 91378
agreement has revoked the agreement but continues to engage in 91379
business at the same location, the board shall revoke the dealer's 91380
license. 91381

~~(B) This section does not apply to two or more motor vehicle 91382
dealers engaged in the business of selling new or used 91383
manufactured or mobile homes in the same manufactured home park. 91384~~

~~(C) Whoever violates this section is guilty of a misdemeanor 91385
of the fourth degree. 91386~~

Sec. 4517.44. (A) No manufacturer or distributor of motor 91387
vehicles, dealer in motor vehicles, ~~or manufactured home broker,~~ 91388
nor any owner, proprietor, person in control, or keeper of any 91389
garage, stable, shop, or other place of business, shall fail to 91390
keep or cause to be kept any record required by law. 91391

(B) Whoever violates this section is guilty of a minor 91392
misdemeanor. 91393

Sec. 4549.17. (A) No law enforcement officer employed by a 91394
law enforcement agency of a municipal corporation, township, or 91395
joint ~~township~~ police district shall issue any citation, summons, 91396
or ticket for a violation of section 4511.21 of the Revised Code 91397
or a substantially similar municipal ordinance or for a violation 91398
of section 5577.04 of the Revised Code or a substantially similar 91399
municipal ordinance, if all of the following apply: 91400

(1) The citation, summons, or ticket would be issued for a 91401
violation described in division (A) of this section that occurs on 91402
a freeway that is part of the interstate system; 91403

(2) The municipal corporation, township, or joint ~~township~~ 91404
police district that employs the law enforcement officer has less 91405
than eight hundred eighty yards of the freeway that is part of the 91406
interstate system within its jurisdiction; 91407

(3) The law enforcement officer must travel outside the 91408
boundaries of the municipal corporation, township, or joint 91409
~~township~~ police district that employs ~~him~~ the officer in order to 91410
enter onto the freeway; 91411

(4) The law enforcement officer travels onto the freeway for 91412
the primary purpose of issuing citations, summonses, or tickets 91413
for violations of section 4511.21 of the Revised Code or a 91414
substantially similar municipal ordinance or for violations of 91415
section 5577.04 of the Revised Code or a substantially similar 91416
municipal ordinance. 91417

(B) As used in this section, "interstate system" has the same 91418
meaning as in section 5516.01 of the Revised Code. 91419

Sec. 4561.21. (A) The director of transportation shall 91420
deposit all aircraft transfer fees in the state treasury to the 91421

credit of the general fund. 91422

(B) The director shall deposit all aircraft license taxes and 91423
fines in the state treasury to the credit of the airport 91424
assistance fund, which is hereby created. Money in the fund shall 91425
be used for maintenance and capital improvements to publicly owned 91426
airports and to pay operating costs associated with the office of 91427
aviation of the department of transportation. For maintenance and 91428
capital improvements to publicly owned airports, ~~and~~ the director 91429
shall distribute the money to eligible recipients in accordance 91430
with such procedures, guidelines, and criteria as the director 91431
shall establish. 91432

Sec. 4582.12. (A)(1) Except as otherwise provided in division 91433
(E) of section 307.671 of the Revised Code, division (A) of this 91434
section does not apply to a port authority educational and 91435
cultural facility acquired, constructed, and equipped pursuant to 91436
a cooperative agreement entered into under section 307.671 of the 91437
Revised Code. 91438

(2)(a) Except as provided in division (C) of this section, 91439
when the cost of a contract for the construction of any building, 91440
structure, or other improvement undertaken by a port authority 91441
involves an expenditure exceeding the higher of one hundred 91442
thousand dollars or the amount as adjusted under division 91443
(A)(2)(b) of this section and the port authority is the 91444
contracting entity, the port authority shall make a written 91445
contract after notice calling for bids for the award of the 91446
contract has been given by publication twice, with at least seven 91447
days between publications, in a newspaper of general circulation 91448
in the area of the jurisdiction of the port authority. Each such 91449
contract shall be let to the lowest responsive and responsible 91450
bidder in accordance with section 9.312 of the Revised Code. Every 91451
contract let shall be in writing and if the contract involves work 91452

or construction, it shall be accompanied by or shall refer to 91453
plans and specifications for the work to be done, prepared for and 91454
approved by the port authority, signed by an authorized officer of 91455
the port authority and by the contractor, and shall be executed in 91456
triplicate. 91457

Each bid shall be awarded in accordance with sections 153.54, 91458
153.57, and 153.571 of the Revised Code. 91459

The port authority may reject any and all bids. 91460

(b) On January 1, 2012, and the first day of January of every 91461
even-numbered year thereafter, the director of commerce shall 91462
adjust the threshold level for contracts subject to the bidding 91463
requirements contained in division (A)(2)(a) of this section. The 91464
director shall adjust this amount according to the average 91465
increase for each of the two years immediately preceding the 91466
adjustment as set forth in the producer price index for material 91467
and supply inputs for new nonresidential construction as 91468
determined by the bureau of labor statistics of the United States 91469
department of labor or, if that index no longer is published, a 91470
generally available comparable index. If there is no resulting 91471
increase, the threshold shall remain the same until the next 91472
scheduled adjustment on the first day of January of the next 91473
even-numbered year. 91474

(B) The board of directors of a port authority by rule may 91475
provide criteria for the negotiation and award without competitive 91476
bidding of any contract as to which the port authority is the 91477
contracting entity for the construction of any building, 91478
structure, or other improvement under any of the following 91479
circumstances: 91480

(1) There exists a real and present emergency that threatens 91481
damage or injury to persons or property of the port authority or 91482
other persons, provided that a statement specifying the nature of 91483

the emergency that is the basis for the negotiation and award of a contract without competitive bidding shall be signed by the officer of the port authority that executes that contract at the time of the contract's execution and shall be attached to the contract.

(2) A commonly recognized industry or other standard or specification does not exist and cannot objectively be articulated for the improvement.

(3) The contract is for any energy conservation measure as defined in section 307.041 of the Revised Code.

(4) With respect to material to be incorporated into the improvement, only a single source or supplier exists for the material.

(5) A single bid is received by the port authority after complying with the provisions of division (A) of this section.

(C)(1) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (B)(2) of this section, the port authority shall publish a notice calling for technical proposals at least twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority. After receipt of the technical proposals, the port authority may negotiate with and award a contract for the improvement to the proposer making the proposal considered to be the most advantageous to the port authority.

(2) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (B)(4) of this section, any construction activities related to the incorporation of the material into the improvement also may be provided without competitive bidding by the source or supplier of that material.

~~(D) No contract for the construction or repair of any~~

~~building, structure, or other improvement and no loan agreement 91515
for the borrowing of funds for any such improvement undertaken by 91516
a port authority, where the port authority is the contracting 91517
entity, shall be executed unless laborers and mechanics employed 91518
on such improvements are paid at the prevailing rates of wages of 91519
laborers and mechanics for the class of work called for by the 91520
improvement. The wages shall be determined in accordance with the 91521
requirements of Chapter 4115. of the Revised Code for the 91522
determination of prevailing wage rates, provided that the 91523
requirements of this section do not apply where the federal 91524
government or any of its agencies furnishes by loan or grant all 91525
or any part of the funds used in connection with such project and 91526
prescribes predetermined minimum wages to be paid to the laborers 91527
and mechanics. 91528~~

Sec. 4582.31. (A) A port authority created in accordance with 91529
section 4582.22 of the Revised Code may: 91530

(1) Adopt bylaws for the regulation of its affairs and the 91531
conduct of its business; 91532

(2) Adopt an official seal; 91533

(3) Maintain a principal office within its jurisdiction, and 91534
maintain such branch offices as it may require; 91535

(4) Acquire, construct, furnish, equip, maintain, repair, 91536
sell, exchange, lease to or from, or lease with an option to 91537
purchase, convey other interests in real or personal property, or 91538
any combination thereof, related to, useful for, or in furtherance 91539
of any authorized purpose and operate any property in connection 91540
with transportation, recreational, governmental operations, or 91541
cultural activities; 91542

(5) Straighten, deepen, and improve any channel, river, 91543
stream, or other water course or way which may be necessary or 91544

proper in the development of the facilities of a port authority; 91545

(6) Make available the use or services of any port authority 91546
facility to one or more persons, one or more governmental 91547
agencies, or any combination thereof; 91548

(7) Issue bonds or notes for the acquisition, construction, 91549
furnishing, or equipping of any port authority facility or other 91550
permanent improvement that a port authority is authorized to 91551
acquire, construct, furnish, or equip, in compliance with Chapter 91552
133. of the Revised Code, except that such bonds or notes may only 91553
be issued pursuant to a vote of the electors residing within the 91554
area of jurisdiction of the port authority. The net indebtedness 91555
incurred by a port authority shall never exceed two per cent of 91556
the total value of all property within the territory comprising 91557
the port authority as listed and assessed for taxation. 91558

(8) Issue port authority revenue bonds beyond the limit of 91559
bonded indebtedness provided by law, payable solely from revenues 91560
as provided in section 4582.48 of the Revised Code, for the 91561
purpose of providing funds to pay the costs of any port authority 91562
facility or facilities or parts thereof; 91563

(9) Apply to the proper authorities of the United States 91564
pursuant to appropriate law for the right to establish, operate, 91565
and maintain foreign trade zones and establish, operate, and 91566
maintain foreign trade zones and to acquire, exchange, sell, lease 91567
to or from, lease with an option to purchase, or operate 91568
facilities, land, or property therefor in accordance with the 91569
"Foreign Trade Zones Act," 48 Stat. 998 (1934), 19 U.S.C. 81a to 91570
81u; 91571

(10) Enjoy and possess the same rights, privileges, and 91572
powers granted municipal corporations under sections 721.04 to 91573
721.11 of the Revised Code; 91574

(11) Maintain such funds as it considers necessary; 91575

(12) Direct its agents or employees, when properly identified 91576
in writing, and after at least five days' written notice, to enter 91577
upon lands within the confines of its jurisdiction in order to 91578
make surveys and examinations preliminary to location and 91579
construction of works for the purposes of the port authority, 91580
without liability of the port authority or its agents or employees 91581
except for actual damage done; 91582

(13) Promote, advertise, and publicize the port authority and 91583
its facilities; provide information to shippers and other 91584
commercial interests; and appear before rate-making authorities to 91585
represent and promote the interests of the port authority; 91586

(14) Adopt rules, not in conflict with general law, it finds 91587
necessary or incidental to the performance of its duties and the 91588
execution of its powers under sections 4582.21 to 4582.54 of the 91589
Revised Code. Any such rule shall be posted at no less than five 91590
public places in the port authority, as determined by the board of 91591
directors, for a period of not fewer than fifteen days, and shall 91592
be available for public inspection at the principal office of the 91593
port authority during regular business hours. No person shall 91594
violate any lawful rule adopted and posted as provided in this 91595
division. 91596

(15) Do any of the following, in regard to any interests in 91597
any real or personal property, or any combination thereof, 91598
including, without limitation, machinery, equipment, plants, 91599
factories, offices, and other structures and facilities related 91600
to, useful for, or in furtherance of any authorized purpose, for 91601
such consideration and in such manner, consistent with Article 91602
VIII of the Ohio Constitution, as the board in its sole discretion 91603
may determine: 91604

(a) Loan moneys to any person or governmental entity for the 91605
acquisition, construction, furnishing, and equipping of the 91606
property; 91607

(b) Acquire, construct, maintain, repair, furnish, and equip the property; 91608
91609

(c) Sell to, exchange with, lease, convey other interests in, or lease with an option to purchase the same or any lesser interest in the property to the same or any other person or governmental entity; 91610
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(d) Guarantee the obligations of any person or governmental entity. 91614
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A port authority may accept and hold as consideration for the conveyance of property or any interest therein such property or interests therein as the board in its discretion may determine, notwithstanding any restrictions that apply to the investment of funds by a port authority. 91616
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(16) Sell, lease, or convey other interests in real and personal property, and grant easements or rights-of-way over property of the port authority. The board of directors shall specify the consideration and any terms for the sale, lease, or conveyance of other interests in real and personal property. Any determination made by the board under this division shall be conclusive. The sale, lease, or conveyance may be made without advertising and the receipt of bids. 91621
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(17) Exercise the right of eminent domain to appropriate any land, rights, rights-of-way, franchises, easements, or other property, necessary or proper for any authorized purpose, pursuant to the procedure provided in sections 163.01 to 163.22 of the Revised Code, if funds equal to the appraised value of the property to be acquired as a result of such proceedings are available for that purpose. However, nothing contained in sections 4582.201 to 4582.59 of the Revised Code shall authorize a port authority to take or disturb property or facilities belonging to any agency or political subdivision of this state, public utility, 91629
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cable operator, or common carrier, which property or facilities 91639
are necessary and convenient in the operation of the agency or 91640
political subdivision, public utility, cable operator, or common 91641
carrier, unless provision is made for the restoration, relocation, 91642
or duplication of such property or facilities, or upon the 91643
election of the agency or political subdivision, public utility, 91644
cable operator, or common carrier, for the payment of 91645
compensation, if any, at the sole cost of the port authority, 91646
provided that: 91647

(a) If any restoration or duplication proposed to be made 91648
under this section involves a relocation of the property or 91649
facilities, the new facilities and location shall be of at least 91650
comparable utilitarian value and effectiveness and shall not 91651
impair the ability of the public utility, cable operator, or 91652
common carrier to compete in its original area of operation; 91653

(b) If any restoration or duplication made under this section 91654
involves a relocation of the property or facilities, the port 91655
authority shall acquire no interest or right in or to the 91656
appropriated property or facilities, except as provided in 91657
division (A)(15) of this section, until the relocated property or 91658
facilities are available for use and until marketable title 91659
thereto has been transferred to the public utility, cable 91660
operator, or common carrier. 91661

As used in division (A)(17) of this section, "cable operator" 91662
has the same meaning as in the "Cable Communications Policy Act of 91663
1984," Pub. L. No. 98-549, 98 Stat. 2780, 47 U.S.C. 522, as 91664
amended by the "Telecommunications Act of 1996," Pub. L. No. 91665
104-104, 110 Stat. 56. 91666

(18)(a) Make and enter into all contracts and agreements and 91667
execute all instruments necessary or incidental to the performance 91668
of its duties and the execution of its powers under sections 91669
4582.21 to 4582.59 of the Revised Code. 91670

(b)(i) Except as provided in division (A)(18)(c) of this section, when the cost of a contract for the construction of any building, structure, or other improvement undertaken by a port authority involves an expenditure exceeding the higher of one hundred thousand dollars or the amount as adjusted under division (A)(18)(b)(ii) of this section, and the port authority is the contracting entity, the port authority shall make a written contract after notice calling for bids for the award of the contract has been given by publication twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority or as provided in section 7.16 of the Revised Code. Each such contract shall be let to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code. Every contract shall be accompanied by or shall refer to plans and specifications for the work to be done, prepared for and approved by the port authority, signed by an authorized officer of the port authority and by the contractor, and shall be executed in triplicate.

Each bid shall be awarded in accordance with sections 153.54, 153.57, and 153.571 of the Revised Code. The port authority may reject any and all bids.

(ii) On January 1, 2012, and the first day of January of every even-numbered year thereafter, the director of commerce shall adjust the threshold level for contracts subject to the bidding requirements contained in division (A)(18)(b)(i) of this section. The director shall adjust this amount according to the average increase for each of the two years immediately preceding the adjustment as set forth in the producer price index for material and supply inputs for new nonresidential construction as determined by the bureau of labor statistics of the United States department of labor or, if that index no longer is published, a generally available comparable index. If there is no resulting

increase, the threshold shall remain the same until the next 91703
scheduled adjustment on the first day of January of the next 91704
even-numbered year. 91705

(c) The board of directors by rule may provide criteria for 91706
the negotiation and award without competitive bidding of any 91707
contract as to which the port authority is the contracting entity 91708
for the construction of any building or structure or other 91709
improvement under any of the following circumstances: 91710

(i) There exists a real and present emergency that threatens 91711
damage or injury to persons or property of the port authority or 91712
other persons, provided that a statement specifying the nature of 91713
the emergency that is the basis for the negotiation and award of a 91714
contract without competitive bidding shall be signed by the 91715
officer of the port authority that executes that contract at the 91716
time of the contract's execution and shall be attached to the 91717
contract. 91718

(ii) A commonly recognized industry or other standard or 91719
specification does not exist and cannot objectively be articulated 91720
for the improvement. 91721

(iii) The contract is for any energy conservation measure as 91722
defined in section 307.041 of the Revised Code. 91723

(iv) With respect to material to be incorporated into the 91724
improvement, only a single source or supplier exists for the 91725
material. 91726

(v) A single bid is received by the port authority after 91727
complying with the provisions of division (A)(18)(b) of this 91728
section. 91729

(d)(i) If a contract is to be negotiated and awarded without 91730
competitive bidding for the reason set forth in division 91731
(A)(18)(c)(ii) of this section, the port authority shall publish a 91732
notice calling for technical proposals ~~at least~~ twice, with at 91733

least seven days between publications, in a newspaper of general 91734
circulation in the area of the port authority or as provided in 91735
section 7.16 of the Revised Code. After receipt of the technical 91736
proposals, the port authority may negotiate with and award a 91737
contract for the improvement to the proposer making the proposal 91738
considered to be the most advantageous to the port authority. 91739

(ii) If a contract is to be negotiated and awarded without 91740
competitive bidding for the reason set forth in division 91741
(A)(18)(c)(iv) of this section, any construction activities 91742
related to the incorporation of the material into the improvement 91743
also may be provided without competitive bidding by the source or 91744
supplier of that material. 91745

(e)(i) Any purchase, exchange, sale, lease, lease with an 91746
option to purchase, conveyance of other interests in, or other 91747
contract with a person or governmental entity that pertains to the 91748
acquisition, construction, maintenance, repair, furnishing, 91749
equipping, or operation of any real or personal property, or any 91750
combination thereof, related to, useful for, or in furtherance of 91751
an activity contemplated by Section 13 or 16 of Article VIII, Ohio 91752
Constitution, shall be made in such manner and subject to such 91753
terms and conditions as may be determined by the board of 91754
directors in its discretion. 91755

(ii) Division (A)(18)(e)(i) of this section applies to all 91756
contracts that are subject to the division, notwithstanding any 91757
other provision of law that might otherwise apply, including, 91758
without limitation, any requirement of notice, any requirement of 91759
competitive bidding or selection, or any requirement for the 91760
provision of security. 91761

(iii) Divisions (A)(18)(e)(i) and (ii) of this section do not 91762
apply to either of the following: any contract secured by or to be 91763
paid from moneys raised by taxation or the proceeds of obligations 91764
secured by a pledge of moneys raised by taxation; or any contract 91765

secured exclusively by or to be paid exclusively from the general 91766
revenues of the port authority. For the purposes of this section, 91767
any revenues derived by the port authority under a lease or other 91768
agreement that, by its terms, contemplates the use of amounts 91769
payable under the agreement either to pay the costs of the 91770
improvement that is the subject of the contract or to secure 91771
obligations of the port authority issued to finance costs of such 91772
improvement, are excluded from general revenues. 91773

(19) Employ managers, superintendents, and other employees 91774
and retain or contract with consulting engineers, financial 91775
consultants, accounting experts, architects, attorneys, and any 91776
other consultants and independent contractors as are necessary in 91777
its judgment to carry out this chapter, and fix the compensation 91778
thereof. All expenses thereof shall be payable from any available 91779
funds of the port authority or from funds appropriated for that 91780
purpose by a political subdivision creating or participating in 91781
the creation of the port authority. 91782

(20) Receive and accept from any state or federal agency 91783
grants and loans for or in aid of the construction of any port 91784
authority facility or for research and development with respect to 91785
port authority facilities, and receive and accept aid or 91786
contributions from any source of money, property, labor, or other 91787
things of value, to be held, used, and applied only for the 91788
purposes for which the grants and contributions are made; 91789

(21) Engage in research and development with respect to port 91790
authority facilities; 91791

(22) Purchase fire and extended coverage and liability 91792
insurance for any port authority facility and for the principal 91793
office and branch offices of the port authority, insurance 91794
protecting the port authority and its officers and employees 91795
against liability for damage to property or injury to or death of 91796
persons arising from its operations, and any other insurance the 91797

port authority may agree to provide under any resolution 91798
authorizing its port authority revenue bonds or in any trust 91799
agreement securing the same; 91800

(23) Charge, alter, and collect rentals and other charges for 91801
the use or services of any port authority facility as provided in 91802
section 4582.43 of the Revised Code; 91803

(24) Provide coverage for its employees under Chapters 145., 91804
4123., and 4141. of the Revised Code; 91805

(25) Do all acts necessary or proper to carry out the powers 91806
expressly granted in sections 4582.21 to 4582.59 of the Revised 91807
Code. 91808

(B) Any instrument by which real property is acquired 91809
pursuant to this section shall identify the agency of the state 91810
that has the use and benefit of the real property as specified in 91811
section 5301.012 of the Revised Code. 91812

(C) Whoever violates division (A)(14) of this section is 91813
guilty of a minor misdemeanor. 91814

Sec. 4585.10. The officer holding a writ for the sale of a 91815
watercraft, its apparel, or furniture, before ~~he proceeds~~ 91816
proceeding to sell it, shall give public notice of the time and 91817
place of sale for at least ten days previous thereto or as 91818
provided in section 7.16 of the Revised Code, by advertisement in 91819
a newspaper ~~published~~ of general circulation in the county, and by 91820
advertisement posted in at least five public places in the county. 91821
Such sales shall be conducted, and the court shall have the same 91822
power over them as sales upon execution. 91823

Sec. 4705.021. (A) As used in this section: 91824

(1) "Disciplinary counsel" means the disciplinary counsel 91825
appointed by the board of commissioners on grievances and 91826

discipline of the supreme court under the Rules for the Government 91827
of the Bar of Ohio. 91828

(2) "Certified grievance committee" means a duly constituted 91829
and organized committee of the Ohio state bar association or of 91830
one or more local bar associations of the state that complies with 91831
the criteria set forth in rule V, section 3 of the Rules for the 91832
Government of the Bar of Ohio. 91833

(3) "Child support order" has the same meaning as in section 91834
3119.01 of the Revised Code. 91835

(B) If an individual who has been admitted to the bar by 91836
order of the supreme court in compliance with its published rules 91837
is determined pursuant to sections 3123.01 to 3123.07 of the 91838
Revised Code by a court or child support enforcement agency to be 91839
in default under a support order being administered or handled by 91840
a child support enforcement agency, that agency may send a notice 91841
listing the name and social security number or other 91842
identification number of the individual and a certified copy of 91843
the court or agency determination that the individual is in 91844
default to the secretary of the board of commissioners on 91845
grievances and discipline of the supreme court and to either the 91846
disciplinary counsel or the president, secretary, and chairperson 91847
of each certified grievance committee if both of the following are 91848
the case: 91849

(1) At least ninety days have elapsed since the final and 91850
enforceable determination of default; 91851

(2) In the preceding ninety days, the obligor has failed to 91852
pay at least fifty per cent of the arrearage through means other 91853
than those described in sections 3123.81 to 3123.85 of the Revised 91854
Code. 91855

Sec. 4725.34. (A) The state board of optometry shall charge 91856

the following nonrefundable fees:	91857
(1) One hundred ten <u>thirty</u> dollars for application for a certificate of licensure;	91858 91859
(2) Twenty-five <u>Forty-five</u> dollars for application for a therapeutic pharmaceutical agents certificate, except when the certificate is to be issued pursuant to division (A)(3) of section 4725.13 of the Revised Code, in which case the fee shall be thirty-five dollars;	91860 91861 91862 91863 91864
(3) One hundred ten <u>thirty</u> dollars for renewal of a certificate of licensure;	91865 91866
(4) Twenty-five <u>Forty-five</u> dollars for renewal of a topical ocular pharmaceutical agents certificate;	91867 91868
(5) Twenty-five <u>Forty-five</u> dollars for renewal of a therapeutic pharmaceutical agents certificate;	91869 91870
(6) Seventy-five <u>One hundred twenty-five</u> dollars for late completion <u>or submission, or both,</u> of continuing optometric education;	91871 91872 91873
(7) Seventy-five <u>One hundred twenty-five</u> dollars for late renewal of one or more certificates that have expired;	91874 91875
(8) Seventy-five dollars for reinstatement of one or more certificates classified as delinquent under section 4725.16 of the Revised Code, multiplied by the number of years the one or more certificates have been classified as delinquent;	91876 91877 91878 91879
(9) Seventy-five dollars for reinstatement of one or more certificates placed on inactive status under section 4725.17 of the Revised Code;	91880 91881 91882
(10) Seventy-five dollars for reinstatement under section 4725.171 of the Revised Code of one or more expired certificates;	91883 91884
(11) Additional fees to cover administrative costs incurred by the board, including fees for replacing licenses issued by the	91885 91886

board and providing rosters of currently licensed optometrists. 91887
Such fees shall be established at a regular meeting of the board 91888
and shall comply with any applicable guidelines or policies set by 91889
the department of administrative services or the office of budget 91890
and management. 91891

(B) The board, subject to the approval of the controlling 91892
board, may establish fees in excess of the amounts specified in 91893
division (A) of this section if the fees do not exceed the amounts 91894
specified by more than fifty per cent. 91895

(C) All receipts of the board, from any source, shall be 91896
deposited in the state treasury to the credit of the occupational 91897
licensing and regulatory fund. 91898

Sec. 4725.48. (A) Any person who desires to engage in optical 91899
dispensing, except as provided in section 4725.47 of the Revised 91900
Code, shall file a properly completed written application for an 91901
examination with the Ohio optical dispensers board or with the 91902
testing service the board has contracted with pursuant to section 91903
4725.49 of the Revised Code. The application for examination shall 91904
be made on a form provided by the board or testing service and 91905
shall be accompanied by an examination fee the board shall 91906
establish by rule. Applicants must return the application to the 91907
board or testing service at least sixty days prior to the date the 91908
examination is scheduled to be administered. 91909

(B) Except as provided in section 4725.47 of the Revised 91910
Code, any person who desires to engage in optical dispensing shall 91911
file a properly completed written application for a license with 91912
the board with ~~the appropriate license~~ a licensure application fee 91913
~~as set forth under section 4725.50 of the Revised Code~~ of fifty 91914
dollars. 91915

No person shall be eligible to apply for a license under this 91916
division, unless the person is at least eighteen years of age, is 91917

of good moral character, is free of contagious or infectious 91918
disease, has received a passing score, as determined by the board, 91919
on the examination administered under division (A) of this 91920
section, is a graduate of an accredited high school of any state, 91921
or has received an equivalent education and has successfully 91922
completed either of the following: 91923

(1) Two years of supervised experience under a licensed 91924
dispensing optician, optometrist, or physician engaged in the 91925
practice of ophthalmology, up to one year of which may be 91926
continuous experience of not less than thirty hours a week in an 91927
optical laboratory; 91928

(2) A two-year college level program in optical dispensing 91929
that has been approved by the board and that includes, but is not 91930
limited to, courses of study in mathematics, science, English, 91931
anatomy and physiology of the eye, applied optics, ophthalmic 91932
optics, measurement and inspection of lenses, lens grinding and 91933
edging, ophthalmic lens design, keratometry, and the fitting and 91934
adjusting of spectacle lenses and frames and contact lenses, 91935
including methods of fitting contact lenses and post-fitting care. 91936

(C) Any person who desires to obtain a license to practice as 91937
an ocularist shall file a properly completed written application 91938
with the board accompanied by the appropriate fee and proof that 91939
the applicant has met the requirements for licensure. The board 91940
shall establish, by rule, the application fee and the minimum 91941
requirements for licensure, including education, examination, or 91942
experience standards recognized by the board as national standards 91943
for ocularists. The board shall issue a license to practice as an 91944
ocularist to an applicant who satisfies the requirements of this 91945
division and rules adopted pursuant to this division. 91946

Sec. 4725.50. (A) Except for a person who qualifies for 91947
licensure as an ocularist, each person who qualifies for licensure 91948

under sections 4725.40 to 4725.59 of the Revised Code shall 91949
receive from the Ohio optical dispensers board, under its seal, a 91950
certificate of licensure entitling ~~him~~ the person to practice as a 91951
licensed spectacle dispensing optician, licensed contact lens 91952
dispensing optician, or a licensed spectacle-contact lens 91953
dispensing optician. The appropriate certificate of licensure 91954
shall be issued by the board no later than sixty days after it has 91955
notified the applicant of ~~his~~ the applicant's approval for 91956
licensure. 91957

~~(B) The licensure fee shall be fifty dollars for applications 91958
submitted in January through March; thirty seven dollars and fifty 91959
cents, in April through June; twenty five dollars, in July through 91960
September; and twelve dollars and fifty cents, in October through 91961
December. 91962~~

~~(C)~~ Each licensed dispensing optician shall display ~~his~~ the 91963
licensed dispensing optician's certificate of licensure in a 91964
conspicuous place in ~~his~~ the licensed dispensing optician's office 91965
or place of business. If a licensed dispensing optician maintains 91966
more than one office or place of business, ~~he~~ the licensed 91967
dispensing optician shall display a duplicate copy of such 91968
certificate at each location. The board shall issue duplicate 91969
copies of the appropriate certificate of licensure for this 91970
purpose upon the filing of an application form therefor and the 91971
payment of a five-dollar fee for each duplicate copy. 91972

Sec. 4725.52. Any licensed dispensing optician may supervise 91973
a maximum of three apprentices who shall be permitted to engage in 91974
optical dispensing only under the supervision of the licensed 91975
dispensing optician. 91976

~~A person serving~~ To serve as an apprentice, a person shall 91977
register ~~annually~~ with the Ohio optical dispensers board either on 91978
a form provided by the board or in the form of a statement giving 91979

the name and address of the supervising licensed dispensing 91980
optician, the location at which the apprentice will be employed, 91981
and any other information required by the board. ~~Each registrant~~ 91982
For the duration of the apprenticeship, the apprentice shall 91983
register annually on the form provided by the board or in the form 91984
of a statement. 91985

Each apprentice shall pay a an initial registration fee of 91986
~~ten~~ twenty dollars. For each registration renewal thereafter, each 91987
apprentice shall pay a registration renewal fee of twenty dollars. 91988

A person who is gaining experience under the supervision of a 91989
licensed optometrist or ophthalmologist that would qualify ~~him~~ the 91990
person under division (B)(1) of section 4725.48 of the Revised 91991
Code to take the examination for optical dispensing is not 91992
required to register with the board. 91993

Sec. 4725.57. An applicant for licensure as a licensed 91994
dispensing optician who is licensed or registered in another state 91995
shall be accorded the full privileges of practice within this 91996
state, upon the payment of a ~~seventy-five~~ fifty-dollar fee and the 91997
submission of a certified copy of the license or certificate 91998
issued by such other state, without the necessity of examination, 91999
if the board determines that the applicant meets the ~~criteria of~~ 92000
~~division (A) of section 4725.48 of the Revised Code and further~~ 92001
~~determines that the educational background or experience of the~~ 92002
~~applicant satisfies the~~ remaining requirements of division (B) of 92003
section 4725.48 of the Revised Code. The board may require that 92004
the applicant have received a passing score, as determined by the 92005
board, on an examination that is substantially the same as the 92006
examination described in division (A) of section 4725.48 of the 92007
Revised Code. 92008

Sec. 4729.52. (A) A person desiring to be registered as a 92009

wholesale distributor of dangerous drugs shall file with the 92010
executive director of the state board of pharmacy a verified 92011
application containing such information as the board requires of 92012
the applicant relative to the qualifications to be registered as a 92013
wholesale distributor of dangerous drugs set forth in section 92014
4729.53 of the Revised Code and the rules adopted under that 92015
section. The board shall register as a wholesale distributor of 92016
dangerous drugs each applicant who has paid the required 92017
registration fee, if the board determines that the applicant meets 92018
the qualifications to be registered as a wholesale distributor of 92019
dangerous drugs set forth in section 4729.53 of the Revised Code 92020
and the rules adopted under that section. 92021

(B) The board may register and issue to a person who does not 92022
reside in this state a registration certificate as a wholesale 92023
distributor of dangerous drugs if the person possesses a current 92024
and valid wholesale distributor of dangerous drugs registration 92025
certificate or license issued by another state that has 92026
qualifications for licensure or registration comparable to the 92027
registration requirements in this state and pays the required 92028
registration fee. 92029

(C) All registration certificates issued pursuant to this 92030
section are effective for a period of twelve months from the first 92031
day of July of each year. A registration certificate shall be 92032
renewed annually by the board for a like period, pursuant to this 92033
section and the standard renewal procedure of Chapter 4745. of the 92034
Revised Code. A person desiring to renew a registration 92035
certificate shall submit an application for renewal and pay the 92036
required renewal fee before the first day of July each year. 92037

(D) Each registration certificate and its application shall 92038
describe not more than one establishment or place where the 92039
registrant or applicant may engage in the sale of dangerous drugs 92040
at wholesale. No registration certificate shall authorize or 92041

permit the wholesale distributor of dangerous drugs named therein 92042
to engage in the sale of drugs at wholesale or to maintain 92043
possession, custody, or control of dangerous drugs for any purpose 92044
other than for the registrant's own use and consumption at any 92045
establishment or place other than that described in the 92046
certificate. 92047

(E)(1) The registration fee is ~~one~~ seven hundred fifty 92048
dollars and shall accompany each application for registration. The 92049
registration renewal fee is ~~one~~ seven hundred fifty dollars and 92050
shall accompany each renewal application. 92051

A registration certificate that has not been renewed in any 92052
year by the first day of August may be reinstated upon payment of 92053
the renewal fee and a penalty of ~~fifty-five~~ one hundred fifty 92054
dollars. 92055

(2) Renewal fees and penalties assessed under division (E)(1) 92056
of this section shall not be returned if the applicant fails to 92057
qualify for renewal. 92058

(F) The registration of any person as a wholesale distributor 92059
of dangerous drugs subjects the person and the person's agents and 92060
employees to the jurisdiction of the board and to the laws of this 92061
state for the purpose of the enforcement of this chapter and the 92062
rules of the board. However, the filing of an application for 92063
registration as a wholesale distributor of dangerous drugs by, or 92064
on behalf of, any person or the registration of any person as a 92065
wholesale distributor of dangerous drugs shall not, of itself, 92066
constitute evidence that the person is doing business within this 92067
state. 92068

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the 92069
Revised Code: 92070

(A)(1) "Clinical laboratory services" means either of the 92071

following: 92072

(a) Any examination of materials derived from the human body 92073
for the purpose of providing information for the diagnosis, 92074
prevention, or treatment of any disease or impairment or for the 92075
assessment of health; 92076

(b) Procedures to determine, measure, or otherwise describe 92077
the presence or absence of various substances or organisms in the 92078
body. 92079

(2) "Clinical laboratory services" does not include the mere 92080
collection or preparation of specimens. 92081

(B) "Designated health services" means any of the following: 92082

(1) Clinical laboratory services; 92083

(2) Home health care services; 92084

(3) Outpatient prescription drugs. 92085

(C) "Fair market value" means the value in arms-length 92086
transactions, consistent with general market value and: 92087

(1) With respect to rentals or leases, the value of rental 92088
property for general commercial purposes, not taking into account 92089
its intended use; 92090

(2) With respect to a lease of space, not adjusted to reflect 92091
the additional value the prospective lessee or lessor would 92092
attribute to the proximity or convenience to the lessor if the 92093
lessor is a potential source of referrals to the lessee. 92094

(D) "Governmental health care program" means any program 92095
providing health care benefits that is administered by the federal 92096
government, this state, or a political subdivision of this state, 92097
including the medicare program established under Title XVIII of 92098
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 92099
as amended, health care coverage for public employees, health care 92100
benefits administered by the bureau of workers' compensation, and 92101

the medicaid program established under Chapter 5111. of the 92102
Revised Code, ~~and the children's buy in program established under~~ 92103
~~sections 5101.5211 to 5101.5216 of the Revised Code.~~ 92104

(E)(1) "Group practice" means a group of two or more holders 92105
of certificates under this chapter legally organized as a 92106
partnership, professional corporation or association, limited 92107
liability company, foundation, nonprofit corporation, faculty 92108
practice plan, or similar group practice entity, including an 92109
organization comprised of a nonprofit medical clinic that 92110
contracts with a professional corporation or association of 92111
physicians to provide medical services exclusively to patients of 92112
the clinic in order to comply with section 1701.03 of the Revised 92113
Code and including a corporation, limited liability company, 92114
partnership, or professional association described in division (B) 92115
of section 4731.226 of the Revised Code formed for the purpose of 92116
providing a combination of the professional services of 92117
optometrists who are licensed, certificated, or otherwise legally 92118
authorized to practice optometry under Chapter 4725. of the 92119
Revised Code, chiropractors who are licensed, certificated, or 92120
otherwise legally authorized to practice chiropractic or 92121
acupuncture under Chapter 4734. of the Revised Code, psychologists 92122
who are licensed, certificated, or otherwise legally authorized to 92123
practice psychology under Chapter 4732. of the Revised Code, 92124
registered or licensed practical nurses who are licensed, 92125
certificated, or otherwise legally authorized to practice nursing 92126
under Chapter 4723. of the Revised Code, pharmacists who are 92127
licensed, certificated, or otherwise legally authorized to 92128
practice pharmacy under Chapter 4729. of the Revised Code, 92129
physical therapists who are licensed, certificated, or otherwise 92130
legally authorized to practice physical therapy under sections 92131
4755.40 to 4755.56 of the Revised Code, occupational therapists 92132
who are licensed, certificated, or otherwise legally authorized to 92133
practice occupational therapy under sections 4755.04 to 4755.13 of 92134

the Revised Code, mechanotherapists who are licensed, 92135
certificated, or otherwise legally authorized to practice 92136
mechanotherapy under section 4731.151 of the Revised Code, and 92137
doctors of medicine and surgery, osteopathic medicine and surgery, 92138
or podiatric medicine and surgery who are licensed, certificated, 92139
or otherwise legally authorized for their respective practices 92140
under this chapter, to which all of the following apply: 92141

(a) Each physician who is a member of the group practice 92142
provides substantially the full range of services that the 92143
physician routinely provides, including medical care, 92144
consultation, diagnosis, or treatment, through the joint use of 92145
shared office space, facilities, equipment, and personnel. 92146

(b) Substantially all of the services of the members of the 92147
group are provided through the group and are billed in the name of 92148
the group and amounts so received are treated as receipts of the 92149
group. 92150

(c) The overhead expenses of and the income from the practice 92151
are distributed in accordance with methods previously determined 92152
by members of the group. 92153

(d) The group practice meets any other requirements that the 92154
state medical board applies in rules adopted under section 4731.70 92155
of the Revised Code. 92156

(2) In the case of a faculty practice plan associated with a 92157
hospital with a medical residency training program in which 92158
physician members may provide a variety of specialty services and 92159
provide professional services both within and outside the group, 92160
as well as perform other tasks such as research, the criteria in 92161
division (E)(1) of this section apply only with respect to 92162
services rendered within the faculty practice plan. 92163

(F) "Home health care services" and "immediate family" have 92164
the same meanings as in the rules adopted under section 4731.70 of 92165

the Revised Code. 92166

(G) "Hospital" has the same meaning as in section 3727.01 of the Revised Code. 92167
92168

(H) A "referral" includes both of the following: 92169

(1) A request by a holder of a certificate under this chapter for an item or service, including a request for a consultation with another physician and any test or procedure ordered by or to be performed by or under the supervision of the other physician; 92170
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(2) A request for or establishment of a plan of care by a certificate holder that includes the provision of designated health services. 92174
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92176

(I) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code. 92177
92178

Sec. 4731.71. The auditor of state may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code within governmental health care programs administered by the state. The auditor of state shall report any violation of either section to the state medical board and shall certify to the attorney general in accordance with section 131.02 of the Revised Code the amount of any refund owed to a state-administered governmental health care program under section 4731.69 of the Revised Code as a result of a violation. If a refund is owed to the medicaid program established under Chapter 5111. of the Revised Code ~~or the children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code~~, the auditor of state also shall report the amount to the department of job and family services. 92179
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The state medical board also may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code. 92193
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Sec. 4733.15. (A) Registration expires ~~annually~~ on the last 92196
day of December ~~following initial registration or renewal of~~ 92197
~~registration 2011~~, and becomes invalid on that date unless renewed 92198
~~pursuant to this section and the standard renewal procedure of~~ 92199
~~sections 4745.01 to 4745.03 of the Revised Code. For renewals~~ 92200
after that date, registration expires biennially on the last day 92201
of December following initial registration or renewal of 92202
registration and becomes invalid on that date unless renewed. 92203
Renewal may be effected ~~at any time prior to the date of~~ 92204
~~expiration for a period of one year~~ by the applicant's payment to 92205
the treasurer of state of a fee of ~~twenty~~ forty dollars for a 92206
renewal of registration as either a professional engineer or 92207
professional surveyor and, ~~for renewals for calendar year 2008 and~~ 92208
~~thereafter~~, demonstration of completion of the continuing 92209
professional development requirements of section 4733.151 of the 92210
Revised Code. When notified as required in this section, a 92211
registrant's failure to renew registration shall not deprive the 92212
registrant of the right of renewal within the following twelve 92213
months, but the fee to renew a registration within twelve months 92214
after expiration shall be increased fifty per cent, and the 92215
registrant shall certify completion of continuing professional 92216
development hours as required in section 4733.151 of the Revised 92217
Code. 92218

The state board of registration for professional engineers 92219
and surveyors may, upon request, waive the payment of renewal fees 92220
or the completion of continuing professional development 92221
requirements for a registrant during the period when the 92222
registrant is on active duty in connection with any branch of the 92223
armed forces of the United States. 92224

(B) Each certificate of authorization issued pursuant to 92225
section 4733.16 of the Revised Code shall authorize the holder to 92226
provide professional engineering or professional surveying 92227

services, through the registered professional engineer or 92228
professional surveyor designated as being in responsible charge of 92229
the professional engineering or professional surveying practice, 92230
from the date of issuance until the last day of June next 92231
succeeding the date upon which the certificate was issued, unless 92232
the certificate has been revoked or suspended for cause as 92233
provided in section 4733.20 of the Revised Code or has been 92234
suspended pursuant to section 3123.47 of the Revised Code. 92235

(C) If a registrant fails to renew registration as provided 92236
under division (A) of this section, renewal and reinstatement may 92237
be effected under rules the board adopts regarding requirements 92238
for reexamination or reapplication, and reinstatement penalty 92239
fees. The board may require a registrant who fails to renew 92240
registration to complete ~~those~~ the required hours of continuing 92241
professional development ~~required from the effective date of this~~ 92242
~~section,~~ as a condition of renewal and reinstatement if the 92243
registrant seeks renewal and reinstatement under this division ~~on~~ 92244
~~or after January 1, 2009.~~ 92245

Sec. 4733.151. (A) ~~Each~~ For registrations expiring on the 92246
last day of December 2011, each registrant for renewal ~~for~~ 92247
~~calendar year 2008 and thereafter~~ shall have completed, ~~within the~~ 92248
~~preceding~~ in calendar year 2011, at least fifteen hours of 92249
continuing professional development for professional engineers and 92250
surveyors. Thereafter, each registrant shall complete at least 92251
thirty hours of continuing professional development during the 92252
two-year period immediately preceding the biennial renewal 92253
expiration date. 92254

(B) The continuing professional development requirement may 92255
be satisfied by coursework or activities dealing with technical, 92256
ethical, or managerial topics relevant to the practice of 92257
engineering or surveying. A registrant may earn continuing 92258

professional development hours by completing or teaching 92259
university or college level coursework, attending seminars, 92260
workshops, or conferences, authoring relevant published papers, 92261
articles, or books, receiving patent awards, or actively 92262
participating in professional or technical societies serving the 92263
engineering or surveying professions. 92264

In the case of the board disputing the content of any credit 92265
hours or coursework, then the board shall presume as a matter of 92266
law that any credit hours submitted by a registrant, or any 92267
coursework or activity submitted for approval, complies with this 92268
section if submitted and if a statement signed by a current 92269
registrant not otherwise participating in the event, affirms that 92270
the material is relevant to the registrant's practice and will 92271
assist the registrant's development in the profession. 92272

Credit for university or college level coursework shall be 92273
based on the credit established by the university or college. One 92274
semester hour as established by the university or college shall be 92275
the equivalent of forty-five hours of continuing professional 92276
development, and one quarter hour as established by the university 92277
or college shall be the equivalent of thirty hours of continuing 92278
professional development. 92279

Credit for seminars, workshops, or conferences offering 92280
continuing education units shall be based on the units awarded by 92281
the organization presenting the seminar, workshop, or conference. 92282
A registrant may earn ten continuing professional development 92283
hours for each continuing education unit awarded. Each hour of 92284
attendance at a seminar, workshop, or conference for which no 92285
continuing education units are offered shall be the equivalent of 92286
one continuing professional development hour. 92287

A registrant may earn two continuing professional development 92288
hours for each year of service as an officer or active committee 92289
member of a professional or technical society or association that 92290

represents registrants or entities composed of registrants. A 92291
registrant may earn ten continuing professional development hours 92292
for authoring relevant published papers, articles, or books. A 92293
registrant may earn ten continuing professional development hours 92294
for each such published paper, article, or book. A registrant may 92295
earn ten continuing professional development hours for each patent 92296
award. 92297

(C) A person registered as both a professional engineer and 92298
professional surveyor shall complete at least ~~five~~ ten of the 92299
~~fifteen~~ thirty hours required under division (A) of this section 92300
in engineering-related coursework or activities and at least ~~five~~ 92301
ten of those ~~fifteen~~ thirty hours in surveying-related coursework 92302
or activities. 92303

(D) A registrant is exempt from the continuing professional 92304
development requirements of this section during the first calendar 92305
year of registration. 92306

(E) A registrant who completes more than ~~fifteen~~ thirty hours 92307
of approved coursework or activities in ~~any calendar year~~ a 92308
biennial renewal period may carry forward to the next ~~calendar~~ 92309
~~year~~ biennial renewal period a maximum of fifteen of the excess 92310
hours. 92311

(F) A registrant shall maintain records to demonstrate 92312
completion of the continuing professional development requirements 92313
specified in this section for a period of ~~three~~ four calendar 92314
years beyond the year in which certification of the completion of 92315
the requirements is obtained by the registrant. The records shall 92316
include all of the following: 92317

(1) A log specifying the type of coursework or activity, its 92318
location and duration along with the instructor's name, and the 92319
number of continuing professional development hours earned; 92320

(2) Certificates of completion or other evidence verifying 92321

attendance. 92322

(G) The records specified in division (F) of this section may 92323
be audited at any time by the state board of registration for 92324
professional engineers and surveyors. If the board discovers that 92325
a registrant has failed to complete coursework or activities, it 92326
shall notify the registrant of the deficiencies and allow the 92327
registrant six months from the date of the notice to rectify the 92328
deficiencies and to provide the board with evidence of 92329
satisfactory completion of the continuing professional development 92330
requirements. If the registrant fails to provide such evidence 92331
within that six-month period, the board may revoke or suspend the 92332
registration after offering an adjudication hearing in accordance 92333
with Chapter 119. of the Revised Code. 92334

Sec. 4735.01. As used in this chapter: 92335

(A) "Real estate broker" includes any person, partnership, 92336
association, limited liability company, limited liability 92337
partnership, or corporation, foreign or domestic, who for another, 92338
whether pursuant to a power of attorney or otherwise, and who for 92339
a fee, commission, or other valuable consideration, or with the 92340
intention, or in the expectation, or upon the promise of receiving 92341
or collecting a fee, commission, or other valuable consideration 92342
does any of the following: 92343

(1) Sells, exchanges, purchases, rents, or leases, or 92344
negotiates the sale, exchange, purchase, rental, or leasing of any 92345
real estate; 92346

(2) Offers, attempts, or agrees to negotiate the sale, 92347
exchange, purchase, rental, or leasing of any real estate; 92348

(3) Lists, or offers, attempts, or agrees to list, or 92349
auctions, or offers, attempts, or agrees to auction, any real 92350
estate; 92351

(4) Buys or offers to buy, sells or offers to sell, or otherwise deals in options on real estate;	92352 92353
(5) Operates, manages, or rents, or offers or attempts to operate, manage, or rent, other than as custodian, caretaker, or janitor, any building or portions of buildings to the public as tenants;	92354 92355 92356 92357
(6) Advertises or holds self out as engaged in the business of selling, exchanging, purchasing, renting, or leasing real estate;	92358 92359 92360
(7) Directs or assists in the procuring of prospects or the negotiation of any transaction, other than mortgage financing, which does or is calculated to result in the sale, exchange, leasing, or renting of any real estate;	92361 92362 92363 92364
(8) Is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby the broker undertakes primarily to promote the sale, exchange, purchase, rental, or leasing of real estate through its listing in a publication issued primarily for such purpose, or for referral of information concerning such real estate to brokers, or both, except that this division does not apply to a publisher of listings or compilations of sales of real estate by their owners;	92365 92366 92367 92368 92369 92370 92371 92372 92373
(9) Collects rental information for purposes of referring prospective tenants to rental units or locations of such units and charges the prospective tenants a fee.	92374 92375 92376
(B) "Real estate" includes leaseholds as well as any and every interest or estate in land situated in this state, whether corporeal or incorporeal, whether freehold or nonfreehold, and the improvements on the land, but does not include cemetery interment rights.	92377 92378 92379 92380 92381
(C) "Real estate salesperson" means any person associated	92382

with a licensed real estate broker to do or to deal in any acts or 92383
transactions set out or comprehended by the definition of a real 92384
estate broker, for compensation or otherwise. 92385

(D) "Institution of higher education" means either of the 92386
following: 92387

(1) A nonprofit institution as defined in section 1713.01 of 92388
the Revised Code that actually awards, rather than intends to 92389
award, degrees for fulfilling requirements of academic work beyond 92390
high school; 92391

(2) An institution operated for profit that otherwise 92392
qualifies under the definition of an institution in section 92393
1713.01 of the Revised Code and that actually awards, rather than 92394
intends to award, degrees for fulfilling requirements of academic 92395
work beyond high school. 92396

(E) "Foreign real estate" means real estate not situated in 92397
this state and any interest in real estate not situated in this 92398
state. 92399

(F) "Foreign real estate dealer" includes any person, 92400
partnership, association, limited liability company, limited 92401
liability partnership, or corporation, foreign or domestic, who 92402
for another, whether pursuant to a power of attorney or otherwise, 92403
and who for a fee, commission, or other valuable consideration, or 92404
with the intention, or in the expectation, or upon the promise of 92405
receiving or collecting a fee, commission, or other valuable 92406
consideration, does or deals in any act or transaction specified 92407
or comprehended in division (A) of this section with respect to 92408
foreign real estate. 92409

(G) "Foreign real estate salesperson" means any person 92410
associated with a licensed foreign real estate dealer to do or 92411
deal in any act or transaction specified or comprehended in 92412
division (A) of this section with respect to foreign real estate, 92413

for compensation or otherwise. 92414

(H) Any person, partnership, association, limited liability company, limited liability partnership, or corporation, who, for another, in consideration of compensation, by fee, commission, salary, or otherwise, or with the intention, in the expectation, or upon the promise of receiving or collecting a fee, does, or offers, attempts, or agrees to engage in, any single act or transaction contained in the definition of a real estate broker, whether an act is an incidental part of a transaction, or the entire transaction, shall be constituted a real estate broker or real estate salesperson under this chapter. 92415
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(I)(1) The terms "real estate broker," "real estate salesperson," "foreign real estate dealer," and "foreign real estate salesperson" do not include a person, partnership, association, limited liability company, limited liability partnership, or corporation, or the regular employees thereof, who perform any of the acts or transactions specified or comprehended in division (A) of this section, whether or not for, or with the intention, in expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration: 92425
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~~(1)(a)~~ With reference to real estate situated in this state ~~or any interest in it~~ owned by such person, partnership, association, limited liability company, limited liability partnership, or corporation, or acquired on its own account in the regular course of, or as an incident to the management of the property and the investment in it; 92434
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~~(2)(b)~~ As receiver or trustee in bankruptcy, as guardian, executor, administrator, trustee, assignee, commissioner, or any person doing the things mentioned in this section, under authority or appointment of, or incident to a proceeding in, any court, or as a bona fide public officer, or as executor, trustee, or other bona fide fiduciary under any trust agreement, deed of trust, 92440
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will, or other instrument that has been executed in good faith 92446
creating a like bona fide fiduciary obligation; 92447

~~(3)~~(c) As a public officer while performing the officer's 92448
official duties; 92449

~~(4)~~(d) As an attorney at law in the performance of the 92450
attorney's duties; 92451

~~(5)~~(e) As a person who engages in the brokering of the sale 92452
of business assets, not including the ~~negotiation of the sale,~~ 92453
lease, exchange, or assignment of any interest in real estate; 92454

~~(6)~~(f) As a person who engages in the sale of manufactured 92455
homes as defined in division (C)(4) of section 3781.06 of the 92456
Revised Code, or of mobile homes as defined in division (O) of 92457
section 4501.01 of the Revised Code, provided the sale does not 92458
include the negotiation, sale, lease, exchange, or assignment of 92459
any interest in real estate; 92460

~~(7)~~(g) As a person who engages in the sale of commercial real 92461
estate pursuant to the requirements of section 4735.022 of the 92462
Revised Code. 92463

(2) A person, partnership, association, limited liability 92464
company, limited liability partnership, or corporation exempt 92465
under division (I)(1)(a) of this section shall be limited by the 92466
legal interest in the real estate held by that person or entity to 92467
performing any of the acts or transactions specified in or 92468
comprehended by division (A) of this section. 92469

(J) "~~Physically handicapped~~ Disabled licensee" means a person 92470
licensed pursuant to this chapter who is under a severe ~~physical~~ 92471
disability which is of such a nature as to prevent the person from 92472
being able to attend any instruction lasting at least three hours 92473
in duration. 92474

(K) "Division of real estate" may be used interchangeably 92475

with, and for all purposes has the same meaning as, "division of real estate and professional licensing." 92476
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(L) "Superintendent" or "superintendent of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be. 92478
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(M) "Inactive license" means the license status in which a salesperson's license is in the possession of the division, renewed as required under this chapter or rules adopted under this chapter, and not associated with a real estate broker. 92485
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(N) "Broker's license on deposit" means the license status in which a broker's license is in the possession of the division of real estate and professional licensing and renewed as required under this chapter or rules adopted under this chapter. 92489
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(O) "Suspended license" means the license status that prohibits a licensee from providing services that require a license under this chapter for a specified interval of time. 92493
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(P) "Reactivate" means the process prescribed by the superintendent of real estate and professional licensing to remove a license from an inactive, voluntary hold, suspended, or broker's license on deposit status to allow a licensee to provide services that require a license under this chapter. 92496
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(Q) "Revoked" means the license status in which the license is void and not eligible for reactivation. 92501
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(R) "Commercial real estate" means any parcel of real estate in this state other than real estate containing one to four residential units. "Commercial real estate" does not include single-family residential units such as condominiums, townhouses, 92503
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manufactured homes, or homes in a subdivision when sold, leased, 92507
or otherwise conveyed on a unit-by-unit basis, even when those 92508
units are a part of a larger building or parcel of real estate 92509
containing more than four residential units. 92510

(S) "Out-of-state commercial broker" includes any person, 92511
partnership, association, limited liability company, limited 92512
liability partnership, or corporation that is licensed to do 92513
business as a real estate broker in a jurisdiction other than 92514
Ohio. 92515

(T) "Out-of-state commercial salesperson" includes any person 92516
affiliated with an out-of-state commercial broker who is not 92517
licensed as a real estate salesperson in Ohio. 92518

(U) "Exclusive right to sell or lease listing agreement" 92519
means an agency agreement between a seller and broker that meets 92520
the requirements of section 4735.55 of the Revised Code and does 92521
both of the following: 92522

(1) Grants the broker the exclusive right to represent the 92523
seller in the sale or lease of the seller's property; 92524

(2) Provides the broker will be compensated if the broker, 92525
the seller, or any other person or entity produces a purchaser or 92526
tenant in accordance with the terms specified in the listing 92527
agreement or if the property is sold or leased during the term of 92528
the listing agreement to anyone other than to specifically 92529
exempted persons or entities. 92530

(V) "Exclusive agency agreement" means an agency agreement 92531
between a seller and broker that meets the requirements of section 92532
4735.55 of the Revised Code and does both of the following: 92533

(1) Grants the broker the exclusive right to represent the 92534
seller in the sale or lease of the seller's property; 92535

(2) Provides the broker will be compensated if the broker or 92536

any other person or entity produces a purchaser or tenant in 92537
accordance with the terms specified in the listing agreement or if 92538
the property is sold or leased during the term of the listing 92539
agreement, unless the property is sold or leased solely through 92540
the efforts of the seller or to the specifically exempted persons 92541
or entities. 92542

(W) "Exclusive purchaser agency agreement" means an agency 92543
agreement between a purchaser and broker that meets the 92544
requirements of section 4735.55 of the Revised Code and does both 92545
of the following: 92546

(1) Grants the broker the exclusive right to represent the 92547
purchaser in the purchase or lease of property; 92548

(2) Provides the broker will be compensated in accordance 92549
with the terms specified in the exclusive agency agreement or if a 92550
property is purchased or leased by the purchaser during the term 92551
of the agency agreement unless the property is specifically 92552
exempted in the agency agreement. 92553

The agreement may authorize the broker to receive 92554
compensation from the seller or the seller's agent and may provide 92555
that the purchaser is not obligated to compensate the broker if 92556
the property is purchased or leased solely through the efforts of 92557
the purchaser. 92558

(X) "Seller" means a party in a real estate transaction who 92559
is the potential transferor of property. "Seller" includes an 92560
owner of property who is seeking to sell the property and a 92561
landlord who is seeking to rent or lease property to another 92562
person. 92563

(Y) "Voluntary hold" means the license status in which a 92564
license is in the possession of the division of real estate and 92565
professional licensing for a period of not more than twelve months 92566
pursuant to section 4735.142 of the Revised Code, is not renewed 92567

in accordance with the requirements specified in this chapter or 92568
the rules adopted pursuant to it, and is not associated with a 92569
real estate broker. 92570

(Z) "Resigned" means the license status in which a license 92571
has been voluntarily surrendered to or is otherwise in the 92572
possession of the division of real estate and professional 92573
licensing, is not renewed in accordance with the requirements 92574
specified in this chapter or the rules adopted pursuant to it, and 92575
is not associated with a real estate broker. 92576

(AA) "Bona fide" means made in good faith or without purpose 92577
of circumventing license law. 92578

Sec. 4735.02. (A) Except as provided in section 4735.022 of 92579
the Revised Code, no person, partnership, association, limited 92580
liability company, limited liability partnership, or corporation 92581
shall act as a real estate broker or real estate salesperson, or 92582
advertise or assume to act as such, without first being licensed 92583
as provided in this chapter. No person, partnership, association, 92584
limited liability company, limited liability partnership, or 92585
corporation shall provide services that require a license under 92586
this chapter if the licensee's license is inactive, suspended, 92587
placed on voluntary hold, resigned, or a broker's license on 92588
deposit, or if the license has been revoked. Nothing contained in 92589
this chapter shall be construed as authorizing a real estate 92590
broker or salesperson to perform any service constituting the 92591
practice of law. 92592

(B) No partnership, association, limited liability company, 92593
limited liability partnership, or corporation holding a real 92594
estate license shall employ as an officer, director, manager, or 92595
principal employee any person previously holding a license as a 92596
real estate broker, real estate salesperson, foreign real estate 92597
dealer, or foreign real estate salesperson, whose license has been 92598

placed in inactive, voluntary hold, or resigned status, or is 92599
suspended, or revoked and who has not thereafter reactivated the 92600
license or received a new license. 92601

Sec. 4735.03. There is hereby created the Ohio real estate 92602
commission, consisting of five members who shall be appointed by 92603
the governor, with the advice and consent of the senate. Four 92604
members shall have been engaged in the real estate business as 92605
licensed real estate brokers in the state for a period of ten 92606
years immediately preceding the appointment. One member shall 92607
represent the public. Terms of office shall be for five years, 92608
commencing on the first day of July and ending on the thirtieth 92609
day of June. Each member shall hold office from the date of 92610
appointment until the end of the term for which appointed. No more 92611
than three members shall be members of any one political party and 92612
no member of the commission concurrently may be a member of the 92613
commission and the real estate appraiser board created pursuant to 92614
section 4763.02 of the Revised Code. Each member, before entering 92615
upon the duties of office, shall subscribe to and file with the 92616
secretary of state the constitutional oath of office. All 92617
vacancies which occur shall be filled in the manner prescribed for 92618
the regular appointments to the commission. Any member appointed 92619
to fill a vacancy occurring prior to the expiration of the term 92620
for which the member's predecessor was appointed shall hold office 92621
for the remainder of such term. Any member shall continue in 92622
office subsequent to the expiration date of the member's term 92623
until the member's successor takes office, or until a period of 92624
sixty days has elapsed, whichever occurs first. No member shall 92625
hold office for more than two consecutive full terms. Annually, 92626
upon the qualification of the member appointed in such year, the 92627
commission shall organize by selecting from its members a 92628
president and vice-president, and shall do all things necessary 92629
and proper to carry out and enforce this chapter. A majority of 92630

the members of the commission shall constitute a quorum, but a 92631
lesser number may adjourn from time to time. Each member of the 92632
commission shall receive an amount fixed pursuant to section 92633
124.14 of the Revised Code for each day employed in the discharge 92634
of official duties, and the member's actual and necessary expenses 92635
incurred in the discharge of those duties. 92636

The commission or the superintendent of real estate may 92637
investigate complaints concerning the violation of section 4735.02 92638
or 4735.25 of the Revised Code and may subpoena witnesses in 92639
connection with such investigations as provided in section 4735.04 92640
of the Revised Code. The commission or the superintendent may make 92641
application to the appropriate court for an order enjoining the 92642
violation of section 4735.02 or 4735.25 of the Revised Code, and 92643
upon a showing by the commission or the superintendent that any 92644
person, firm, partnership, association, limited liability company, 92645
limited liability partnership, or corporation has violated or is 92646
about to violate section 4735.02 or 4735.25 of the Revised Code, 92647
an injunction, restraining order, or such other order as may be 92648
appropriate shall be granted by such court. 92649

The commission shall: 92650

(A) Adopt canons of ethics for the real estate industry; 92651

(B) Upon appeal by any party affected, or may upon its own 92652
motion, review any order or application determination of the 92653
superintendent, and may reverse, vacate, or modify any order of 92654
the superintendent; 92655

(C) Administer the real estate education and research fund 92656
and hear appeals from orders of the superintendent regarding 92657
claims against that fund or against the real estate recovery fund; 92658

(D) Direct the superintendent on the content, scheduling, 92659
instruction, and offerings of real estate courses for salesperson 92660
and broker educational requirements; 92661

(E) Disseminate to licensees and the public, information 92662
relative to commission activities and decisions; 92663

(F) Notify licensees of changes in state and federal civil 92664
rights laws pertaining to discrimination in the purchase or sale 92665
of real estate and relevant case law, and inform licensees that 92666
they are subject to disciplinary action if they do not comply with 92667
the changes; 92668

(G) Publish and furnish to public libraries and to brokers 92669
booklets on housing and remedies available to dissatisfied clients 92670
under this chapter and Chapter 4112. of the Revised Code; 92671

(H) Provide training to commission members and employees of 92672
the division of real estate and professional licensing on issues 92673
relative to the real estate industry, which may include but not be 92674
limited to investigative techniques, real estate law, and real 92675
estate practices and procedures. 92676

Sec. 4735.05. (A) The Ohio real estate commission is a part 92677
of the department of commerce for administrative purposes. The 92678
director of commerce is ex officio the executive officer of the 92679
commission, or the director may designate any employee of the 92680
department as superintendent of real estate and professional 92681
licensing to act as executive officer of the commission. 92682

The commission and the real estate appraiser board created 92683
pursuant to section 4763.02 of the Revised Code shall each submit 92684
to the director a list of three persons whom the commission and 92685
the board consider qualified to be superintendent within sixty 92686
days after the office of superintendent becomes vacant. The 92687
director shall appoint a superintendent from the lists submitted 92688
by the commission and the board, and the superintendent shall 92689
serve at the pleasure of the director. 92690

(B) The superintendent, except as otherwise provided, shall 92691

do all of the following in regard to this chapter:	92692
(1) Administer this chapter;	92693
(2) Issue all orders necessary to implement this chapter;	92694
(3) Investigate complaints concerning the violation of this chapter or the conduct of any licensee;	92695 92696
(4) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The investigators or auditors have the right to review and audit the business records of licensees and continuing education course providers during normal business hours.	92697 92698 92699 92700 92701 92702 92703
(5) Appoint a hearing examiner for any proceeding involving disciplinary action under section 3123.47, <u>4735.052</u> , or 4735.18 of the Revised Code;	92704 92705 92706
(6) Administer the real estate recovery fund.	92707
(C) The superintendent may do all of the following:	92708
(1) In connection with investigations and audits under division (B) of this section, subpoena witnesses as provided in section 4735.04 of the Revised Code;	92709 92710 92711
(2) Apply to the appropriate court to enjoin any violation of this chapter. Upon a showing by the superintendent that any person has violated or is about to violate any provision of this chapter, the court shall grant an injunction, restraining order, or other appropriate order.	92712 92713 92714 92715 92716
(3) Upon the death of a licensed broker or the revocation or suspension of the broker's license, if there is no other licensed broker within the business entity of the broker, appoint upon application by any interested party, or, in the case of a deceased broker, subject to the approval by the appropriate probate court,	92717 92718 92719 92720 92721

recommend the appointment of, an ancillary trustee who is 92722
qualified as determined by the superintendent to conclude the 92723
business transactions of the deceased, revoked, or suspended 92724
broker; 92725

(4) In conjunction with the enforcement of this chapter, when 92726
the superintendent of real estate has reasonable cause to believe 92727
that an applicant or licensee has committed a criminal offense, 92728
the superintendent of real estate may request the superintendent 92729
of the bureau of criminal identification and investigation to 92730
conduct a criminal records check of the applicant or licensee. The 92731
superintendent of the bureau of criminal identification and 92732
investigation shall obtain information from the federal bureau of 92733
investigation as part of the criminal records check of the 92734
applicant or licensee. The superintendent of real estate may 92735
assess the applicant or licensee a fee equal to the fee assessed 92736
for the criminal records check. 92737

(5) In conjunction with the enforcement of this chapter, 92738
issue advisory letters in lieu of initiating disciplinary action 92739
under section 4735.051 or 4735.052 of the Revised Code or issuing 92740
a citation under section 4735.16 or 4735.181 of the Revised Code. 92741

(D) All information that is obtained by investigators and 92742
auditors performing investigations or conducting inspections, 92743
audits, and other inquiries pursuant to division (B)(4) of this 92744
section, from licensees, complainants, or other persons, and all 92745
reports, documents, and other work products that arise from that 92746
information and that are prepared by the investigators, auditors, 92747
or other personnel of the department, shall be held in confidence 92748
by the superintendent, the investigators and auditors, and other 92749
personnel of the department. Notwithstanding division (D) of 92750
section 2317.023 of the Revised Code, all information obtained by 92751
investigators or auditors from an informal mediation meeting held 92752
pursuant to section 4735.051 of the Revised Code, including but 92753

not limited to the agreement to mediate and the accommodation 92754
agreement, shall be held in confidence by the superintendent, 92755
investigators, auditors, and other personnel of the department. 92756

(E) This section does not prevent the division of real estate 92757
and professional licensing from releasing information relating to 92758
licensees to the superintendent of financial institutions for 92759
purposes relating to the administration of sections 1322.01 to 92760
1322.12 of the Revised Code, to the superintendent of insurance 92761
for purposes relating to the administration of Chapter 3953. of 92762
the Revised Code, to the attorney general, or to local law 92763
enforcement agencies and local prosecutors. Information released 92764
by the division pursuant to this section remains confidential. 92765

Sec. 4735.052. (A) Upon receipt of a written complaint or 92766
upon the superintendent's own motion, the superintendent may 92767
investigate any person that has allegedly violated section 4735.02 92768
or 4735.25 of the Revised Code, except that the superintendent 92769
shall not initiate an investigation, pursuant to this section, of 92770
any person who held a ~~valid license on voluntary hold or a~~ 92771
suspended or inactive license under this chapter ~~any time during~~ 92772
~~the twelve months preceding~~ on the date of the alleged violation. 92773

(B) If, after investigation, the superintendent determines 92774
there exists reasonable evidence of a violation of section 4735.02 92775
or 4735.25 of the Revised Code, within ~~seven~~ fourteen business 92776
days after that determination, the superintendent shall send the 92777
party who is the subject of the investigation, a written notice, 92778
by regular mail, that includes all of the following information: 92779

(1) A description of the activity in which the party 92780
allegedly is engaging or has engaged that is a violation of 92781
section 4735.02 or 4735.25 of the Revised Code; 92782

(2) The applicable law allegedly violated; 92783

(3) A statement informing the party that a hearing concerning the alleged violation will be held ~~at the next regularly scheduled meeting of the Ohio real estate commission, and a statement giving the date and place of that meeting;~~

~~(4) A statement informing the party that the party or the party's attorney may appear in person at the hearing and present evidence and examine witnesses appearing for and against the party, or the party may submit written testimony stating any positions, arguments, or contentions, upon the party's request, before a hearing examiner pursuant to Chapter 119. of the Revised Code.~~

(C) ~~The commission~~ (1) If a hearing is requested, the hearing examiner shall hear the testimony of all parties present at the hearing and consider any written testimony submitted pursuant to division (B)(4) of this section, and determine if there has been a violation of section 4735.02 or 4735.25 of the Revised Code. If

(2) After the conclusion of formal hearings, the hearing examiner shall file a report of findings of fact and conclusions of law with the superintendent, the commission, the complainant, and the parties. Within twenty days of receipt of such copy of the written report of findings of fact and conclusions of law, the parties and the division may file with the commission written objections to the report, which shall be considered by the commission before approving, modifying, or disapproving the report.

(3) The commission shall review the hearing examiner's report at the next regularly scheduled commission meeting held at least twenty business days after receipt of the hearing examiner's report. The commission shall hear the testimony of the complainant or the parties.

(4) The commission shall decide whether to impose

disciplinary sanctions upon a party for a violation of section 92815
4735.02 of the Revised Code. If the commission finds that a 92816
violation has occurred, the commission may assess a civil penalty, 92817
in an amount it determines, not to exceed one thousand dollars per 92818
violation. Each day a violation occurs or continues is a separate 92819
violation. The commission shall determine the terms of payment. 92820
The commission shall maintain a ~~transcript~~ record of the 92821
proceedings of the hearing and issue a written opinion to all 92822
parties, citing its findings and grounds for any action taken. 92823

(D) Civil penalties collected under this section shall be 92824
deposited in the real estate ~~recovery~~ operating fund, which is 92825
created in the state treasury under section ~~4735.12~~ 4735.211 of 92826
the Revised Code. 92827

(E) If a party fails to pay a civil penalty assessed pursuant 92828
to this section within the time prescribed by the commission, the 92829
superintendent shall forward to the attorney general the name of 92830
the party and the amount of the civil penalty, for the purpose of 92831
collecting that civil penalty. In addition to the civil penalty 92832
assessed pursuant to this section, the party also shall pay any 92833
fee assessed by the attorney general for collection of the civil 92834
penalty. 92835

(F) The superintendent may reserve the right to bring a civil 92836
action against a party that fails to pay a civil penalty for 92837
breach of contract in a court of competent jurisdiction. 92838

Sec. 4735.06. (A) Application for a license as a real estate 92839
broker shall be made to the superintendent of real estate on forms 92840
furnished by the superintendent and filed with the superintendent 92841
and shall be signed by the applicant or its members or officers. 92842
Each application shall state the name of the person applying and 92843
the location of the place of business for which the license is 92844
desired, and give such other information as the superintendent 92845

requires in the form of application prescribed by the 92846
superintendent. 92847

If the applicant is a partnership, limited liability company, 92848
limited liability partnership, or association, the names of all 92849
the members also shall be stated, and, if the applicant is a 92850
corporation, the names of its president and of each of its 92851
officers also shall be stated. The superintendent has the right to 92852
reject the application of any partnership, association, limited 92853
liability company, limited liability partnership, or corporation 92854
if the name proposed to be used by such partnership, association, 92855
limited liability company, limited liability partnership, or 92856
corporation is likely to mislead the public or if the name is not 92857
such as to distinguish it from the name of any existing 92858
partnership, association, limited liability company, limited 92859
liability partnership, or corporation licensed under this chapter, 92860
unless there is filed with the application the written consent of 92861
such existing partnership, association, limited liability company, 92862
limited liability partnership, or corporation, executed by a duly 92863
authorized representative of it, permitting the use of the name of 92864
such existing partnership, association, limited liability company, 92865
limited liability partnership, or corporation. 92866

(B) A fee of one hundred dollars shall accompany the 92867
application for a real estate broker's license, ~~which fee includes~~ 92868
~~the fee for the initial year of the licensing period, if a license~~ 92869
~~is issued. The initial licensing period commences at the time the~~ 92870
~~license is issued and ends on the applicant's first birthday~~ 92871
~~thereafter. However, if the applicant was an inactive or active~~ 92872
~~salesperson immediately preceding application for a broker's~~ 92873
~~license, then the initial licensing period shall commence at the~~ 92874
~~time the broker's license is issued and ends on the date the~~ 92875
~~licensee's continuing education is due as set when the applicant~~ 92876
~~was a salesperson.~~ The application fee shall be ~~retained by the~~ 92877

~~superintendent if the applicant is admitted to the examination for~~ 92878
~~the license or the examination requirement is waived, but, if an~~ 92879
~~applicant is not so admitted and a waiver is not involved,~~ 92880
~~one half of the fee shall be retained by the superintendent to~~ 92881
~~cover the expenses of processing the application and the other~~ 92882
~~one half shall be returned to the applicant nonrefundable.~~ 92883
A fee 92883
of one hundred dollars shall be charged by the superintendent for 92884
each successive application made by an applicant. In the case of 92885
issuance of a three-year license, upon passing the examination, or 92886
upon waiver of the examination requirement, if the superintendent 92887
determines it is necessary, the applicant shall submit an 92888
additional fee determined by the superintendent based upon the 92889
number of years remaining in a real estate salesperson's licensing 92890
period. 92891

(C) One dollar of each application fee for a real estate 92892
broker's license shall be credited to the real estate education 92893
and research fund, which is hereby created in the state treasury. 92894
The Ohio real estate commission may use the fund in discharging 92895
the duties prescribed in divisions (E), (F), (G), and (H) of 92896
section 4735.03 of the Revised Code and shall use it in the 92897
advancement of education and research in real estate at any 92898
institution of higher education in the state, or in contracting 92899
with any such institution or a trade organization for a particular 92900
research or educational project in the field of real estate, or in 92901
advancing loans, not exceeding ~~eight hundred~~ two thousand dollars, 92902
to applicants for salesperson licenses, to defray the costs of 92903
satisfying the educational requirements of division (F) of section 92904
4735.09 of the Revised Code. Such loans shall be made according to 92905
rules established by the commission under the procedures of 92906
Chapter 119. of the Revised Code, and they shall be repaid to the 92907
fund within three years of the time they are made. No more than 92908
ten thousand dollars shall be lent from the fund in any one year. 92909

The governor may appoint a representative from the executive 92910
branch to be a member ex officio of the commission for the purpose 92911
of advising on research requests or educational projects. The 92912
commission shall report to the general assembly on the third 92913
Tuesday after the third Monday in January of each year setting 92914
forth the total amount contained in the fund and the amount of 92915
each research grant that it has authorized and the amount of each 92916
research grant requested. A copy of all research reports shall be 92917
submitted to the state library of Ohio and the library of the 92918
legislative service commission. 92919

(D) If the superintendent, with the consent of the 92920
commission, enters into an agreement with a national testing 92921
service to administer the real estate broker's examination, 92922
pursuant to division (A) of section 4735.07 of the Revised Code, 92923
the superintendent may require an applicant to pay the testing 92924
service's examination fee directly to the testing service. If the 92925
superintendent requires the payment of the examination fee 92926
directly to the testing service, each applicant shall submit to 92927
the superintendent a processing fee in an amount determined by the 92928
Ohio real estate commission pursuant to division (A)(2) of section 92929
4735.10 of the Revised Code. 92930

Sec. 4735.07. (A) The superintendent of real estate, with the 92931
consent of the Ohio real estate commission, may enter into 92932
agreements with recognized national testing services to administer 92933
the real estate broker's examination under the superintendent's 92934
supervision and control, consistent with the requirements of this 92935
chapter as to the contents of such examination. 92936

(B) No applicant for a real estate broker's license shall 92937
take the broker's examination who has not established to the 92938
satisfaction of the superintendent that the applicant: 92939

(1) Is honest, truthful, and of good reputation; 92940

(2)(a) Has not been convicted of a felony or crime of moral turpitude, or if the applicant has been so convicted, the superintendent has disregarded the conviction because the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved;

(b) Has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate or, if the applicant has been so adjudged, at least two years have passed since the court decision and the superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that the applicant's activities and employment record since the adjudication show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will again violate the laws involved.

(3) Has not, during any period in which the applicant was licensed under this chapter, violated any provision of, or any rule adopted pursuant to, this chapter, or, if the applicant has violated any such provision or rule, has established to the satisfaction of the superintendent that the applicant will not again violate such provision or rule;

(4) Is at least eighteen years of age;

(5) Has been a licensed real estate broker or salesperson for at least two years; during at least two of the five years preceding the person's application, has worked as a licensed real estate broker or salesperson for an average of at least thirty hours per week; and has completed one of the following:

(a) At least twenty real estate transactions, in which	92973
property was sold for another by the applicant while acting in the	92974
capacity of a real estate broker or salesperson;	92975
(b) Such equivalent experience as is defined by rules adopted	92976
by the commission.	92977
(6)(a) If licensed as a real estate salesperson prior to	92978
August 1, 2001, successfully has completed at an institution of	92979
higher education all of the following:	92980
(i) Thirty hours of classroom instruction in real estate	92981
practice;	92982
(ii) Thirty hours of classroom instruction that includes the	92983
subjects of Ohio real estate law, municipal, state, and federal	92984
civil rights law, new case law on housing discrimination,	92985
desegregation issues, and methods of eliminating the effects of	92986
prior discrimination. If feasible, the classroom instruction in	92987
Ohio real estate law shall be taught by a member of the faculty of	92988
an accredited law school. If feasible, the classroom instruction	92989
in municipal, state, and federal civil rights law, new case law on	92990
housing discrimination, desegregation issues, and methods of	92991
eliminating the effects of prior discrimination shall be taught by	92992
a staff member of the Ohio civil rights commission who is	92993
knowledgeable with respect to those subjects. The requirements of	92994
this division do not apply to an applicant who is admitted to	92995
practice before the supreme court.	92996
(iii) Thirty hours of classroom instruction in real estate	92997
appraisal;	92998
(iv) Thirty hours of classroom instruction in real estate	92999
finance;	93000
(v) Three quarter hours, or its equivalent in semester hours,	93001
in financial management;	93002

(vi) Three quarter hours, or its equivalent in semester hours, in human resource or personnel management;	93003 93004
(vii) Three quarter hours, or its equivalent in semester hours, in applied business economics;	93005 93006
(viii) Three quarter hours, or its equivalent in semester hours, in business law.	93007 93008
(b) If licensed as a real estate salesperson on or after August 1, 2001, successfully has completed at an institution of higher education all of the following:	93009 93010 93011
(i) Forty hours of classroom instruction in real estate practice;	93012 93013
(ii) Forty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.	93014 93015 93016 93017 93018 93019 93020 93021 93022 93023 93024 93025 93026 93027
(iii) Twenty hours of classroom instruction in real estate appraisal;	93028 93029
(iv) Twenty hours of classroom instruction in real estate finance;	93030 93031
(v) The training in the amount of hours specified under	93032

divisions (B)(6)(a)(v), (vi), (vii), and (viii) of this section. 93033

(c) Division (B)(6)(a) or (b) of this section does not apply 93034
to any applicant who holds a valid real estate salesperson's 93035
license issued prior to January 2, 1972. Divisions (B)(6)(a)(v), 93036
(vi), (vii), and (viii) or division (B)(6)(b)(v) of this section 93037
do not apply to any applicant who holds a valid real estate 93038
salesperson's license issued prior to January 3, 1984. 93039

(7) If licensed as a real estate salesperson on or after 93040
January 3, 1984, satisfactorily has completed a minimum of two 93041
years of post-secondary education, or its equivalent in semester 93042
or quarter hours, at an institution of higher education, and has 93043
fulfilled the requirements of division (B)(6)(a) or (b) of this 93044
section. The requirements of division (B)(6)(a) or (b) of this 93045
section may be included in the two years of post-secondary 93046
education, or its equivalent in semester or quarter hours, that is 93047
required by this division. 93048

(C) Each applicant for a broker's license shall be examined 93049
in the principles of real estate practice, Ohio real estate law, 93050
and financing and appraisal, and as to the duties of real estate 93051
brokers and real estate salespersons, the applicant's knowledge of 93052
real estate transactions and instruments relating to them, and the 93053
canons of business ethics pertaining to them. The commission from 93054
time to time shall promulgate such canons and cause them to be 93055
published in printed form. 93056

(D) Examinations shall be administered with reasonable 93057
accommodations in accordance with the requirements of the 93058
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 93059
U.S.C. 12101. The contents of an examination shall be consistent 93060
with the requirements of division (B)(6) of this section and with 93061
the other specific requirements of this section. An applicant who 93062
has completed the requirements of division (B)(6) of this section 93063
at the time of application shall be examined no later than twelve 93064

months after the applicant is notified of admission to the examination. 93065
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(E) The superintendent may waive one or more of the requirements of this section in the case of an application from a nonresident real estate broker pursuant to a reciprocity agreement with the licensing authority of the state from which the nonresident applicant holds a valid real estate broker license. 93067
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(F) There shall be no limit placed on the number of times an applicant may retake the examination. 93072
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(G)(1) ~~Not earlier than the date of issue of a real estate broker's license to a licensee, but not later than twelve months after the date of issue of a real estate broker's license to a licensee, the licensee shall submit proof satisfactory to the superintendent, on forms made available by the superintendent, of the completion of ten hours of classroom instruction in real estate brokerage at an institution of higher education or any other institution that shall be completed in schools, seminars, and educational institutions that is are approved by the commission. That instruction shall include, but not be limited to, current issues in managing a real estate company or office~~ Approval of the curriculum and providers shall be granted according to rules adopted pursuant to section 4735.10 of the Revised Code. 93074
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If the required proof of completion is not submitted to the superintendent within twelve months of the date a license is issued under this section, the license of the real estate broker is suspended automatically without the taking of any action by the superintendent. The broker's license shall not be reactivated by the superintendent until it is established, to the satisfaction of the superintendent, that the requirements of this division have been met and that the licensee is in compliance with this chapter. A licensee's license is revoked automatically without the taking 93088
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of any action by the superintendent if the licensee fails to 93097
submit proof of completion of the education requirements specified 93098
under division (G)(1) of this section within twelve months of the 93099
date the license is suspended. 93100

(2) If the license of a real estate broker is suspended 93101
pursuant to division (G)(1) of this section, the license of a real 93102
estate salesperson associated with that broker correspondingly is 93103
suspended pursuant to division (H) of section 4735.20 of the 93104
Revised Code. However, the suspended license of the associated 93105
real estate salesperson shall be reactivated and no fee shall be 93106
charged or collected for that reactivation if all of the following 93107
occur: 93108

(a) That broker subsequently submits satisfactory proof to 93109
the superintendent that the broker has complied with the 93110
requirements of division (G)(1) of this section and requests that 93111
the broker's license as a real estate broker be reactivated; 93112

(b) The superintendent then reactivates the broker's license 93113
as a real estate broker; 93114

(c) The associated real estate salesperson intends to 93115
continue to be associated with that broker and otherwise is in 93116
compliance with this chapter. 93117

Sec. 4735.09. (A) Application for a license as a real estate 93118
salesperson shall be made to the superintendent of real estate on 93119
forms furnished by the superintendent and signed by the applicant. 93120
The application shall be in the form prescribed by the 93121
superintendent and shall contain such information as is required 93122
by this chapter and the rules of the Ohio real estate commission. 93123
The application shall be accompanied by the recommendation of the 93124
real estate broker with whom the applicant is associated or with 93125
whom the applicant intends to be associated, certifying that the 93126
applicant is honest, truthful, and of good reputation, has not 93127

been convicted of a felony or a crime involving moral turpitude, 93128
and has not been finally adjudged by a court to have violated any 93129
municipal, state, or federal civil rights laws relevant to the 93130
protection of purchasers or sellers of real estate, which 93131
conviction or adjudication the applicant has not disclosed to the 93132
superintendent, and recommending that the applicant be admitted to 93133
the real estate salesperson examination. 93134

(B) A fee of sixty dollars shall accompany the application, 93135
which fee includes the fee for the initial year of the licensing 93136
period, if a license is issued. The initial year of the licensing 93137
period commences at the time the license is issued and ends on the 93138
applicant's first birthday thereafter. The application fee shall 93139
be ~~retained by the superintendent if the applicant is admitted to~~ 93140
~~the examination for the license or the examination requirement is~~ 93141
~~waived, but, if an applicant is not so admitted and a waiver is~~ 93142
~~not involved, one half of the fee shall be retained by the~~ 93143
~~superintendent to cover the expenses of processing the application~~ 93144
~~and the other one half shall be returned to the applicant~~ 93145
nonrefundable. A fee of sixty dollars shall be charged by the 93146
superintendent for each successive application made by the 93147
applicant. One dollar of each application fee shall be credited to 93148
the real estate education and research fund. 93149

(C) There shall be no limit placed on the number of times an 93150
applicant may retake the examination. 93151

(D) The superintendent, with the consent of the commission, 93152
may enter into an agreement with a recognized national testing 93153
service to administer the real estate salesperson's examination 93154
under the superintendent's supervision and control, consistent 93155
with the requirements of this chapter as to the contents of the 93156
examination. 93157

If the superintendent, with the consent of the commission, 93158
enters into an agreement with a national testing service to 93159

administer the real estate salesperson's examination, the 93160
superintendent may require an applicant to pay the testing 93161
service's examination fee directly to the testing service. If the 93162
superintendent requires the payment of the examination fee 93163
directly to the testing service, each applicant shall submit to 93164
the superintendent a processing fee in an amount determined by the 93165
Ohio real estate commission pursuant to division (A)(1) of section 93166
4735.10 of the Revised Code. 93167

(E) The superintendent shall issue a real estate 93168
salesperson's license when satisfied that the applicant has 93169
received a passing score on each portion of the salesperson's 93170
examination as determined by rule by the real estate commission, 93171
except that the superintendent may waive one or more of the 93172
requirements of this section in the case of an applicant who is a 93173
licensed real estate salesperson in another state pursuant to a 93174
reciprocity agreement with the licensing authority of the state 93175
from which the applicant holds a valid real estate salesperson's 93176
license. 93177

(F) No applicant for a salesperson's license shall take the 93178
salesperson's examination who has not established to the 93179
satisfaction of the superintendent that the applicant: 93180

(1) Is honest, truthful, and of good reputation; 93181

(2)(a) Has not been convicted of a felony or crime of moral 93182
turpitude or, if the applicant has been so convicted, the 93183
superintendent has disregarded the conviction because the 93184
applicant has proven to the superintendent, by a preponderance of 93185
the evidence, that the applicant's activities and employment 93186
record since the conviction show that the applicant is honest, 93187
truthful, and of good reputation, and there is no basis in fact 93188
for believing that the applicant again will violate the laws 93189
involved; 93190

(b) Has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate or, if the applicant has been so adjudged, at least two years have passed since the court decision and the superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved.

(3) Has not, during any period in which the applicant was licensed under this chapter, violated any provision of, or any rule adopted pursuant to this chapter, or, if the applicant has violated such provision or rule, has established to the satisfaction of the superintendent that the applicant will not again violate such provision or rule;

(4) Is at least eighteen years of age;

(5) If born after the year 1950, has a high school diploma or its equivalent as recognized by the state department of education;

~~(6)(a) If beginning instruction prior to August 1, 2001, has successfully completed at an institution of higher education all of the following:~~

~~(i) Thirty hours of classroom instruction in real estate practice;~~

~~(ii) Thirty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction~~

~~in municipal, state, and federal civil rights law, new case law on 93222
housing discrimination, desegregation issues, and methods of 93223
eliminating the effects of prior discrimination shall be taught by 93224
a staff member of the Ohio civil rights commission who is 93225
knowledgeable with respect to those subjects. The requirements of 93226
this division do not apply to an applicant who is admitted to 93227
practice before the supreme court. 93228~~

~~(iii) Thirty hours of classroom instruction in real estate 93229
appraisal; 93230~~

~~(iv) Thirty hours of classroom instruction in real estate 93231
finance. 93232~~

~~(b) Any person who has not been licensed as a real estate 93233
salesperson or broker within a four year period immediately 93234
preceding the person's current application for the salesperson's 93235
examination shall have successfully completed the classroom 93236
instruction required by division (F)(6)(a) of this section within 93237
a ten year period immediately preceding the person's current 93238
application for the salesperson's examination. 93239~~

~~(7) If beginning instruction, as determined by the 93240
superintendent, on or after August 1, 2001, has Has successfully 93241
completed at an institution of higher education all of the 93242
following: 93243~~

~~(a) Forty hours of classroom instruction in real estate 93244
practice; 93245~~

~~(b) Forty hours of classroom instruction that includes the 93246
subjects of Ohio real estate law, municipal, state, and federal 93247
civil rights law, new case law on housing discrimination, 93248
desegregation issues, and methods of eliminating the effects of 93249
prior discrimination. If feasible, the classroom instruction in 93250
Ohio real estate law shall be taught by a member of the faculty of 93251
an accredited law school. If feasible, the classroom instruction 93252~~